

Mayor Hafften called the **January 14, 2014** Regular Meeting of the Rockford City Council to order at 7:00 p.m. The meeting was held in the Council Chambers of City Hall at 6031 Main Street, Rockford, MN.

Roll Call

Roll call was taken. The following council members were present: Hafften, Graner, Martinson and Wenz. Absent: Kesanen. Also in attendance were: Attorney Couri, Engineer Ward, Administrator Carswell, Deputy Clerk Etzel, Public Works Supervisor Peterson and Parks Employee Desens.

The Pledge of Allegiance to the Flag was given.

***Approve Consent Agenda/Set Agenda**

MOTION was made by Wenz, seconded by Graner to approve all items 3.A to 3.L on the consent agenda and set agenda.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve Agenda**

MOTION was made by Martinson, seconded by Graner to remove item 4.A. Employee Recognition 15 Years Elsen and add 4.D. Rockford Mall Purchase agreement to the agenda.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve Regular Council Minutes/December 23, 2013**

MOTION was made by Wenz, seconded by Graner to approve the minutes of the December 23, 2013 regular council meeting.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve Special Council Minutes/January 6, 2014**

MOTION was made by Wenz, seconded by Graner to approve the minutes of the January 6, 2014 special council meeting.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve Payment of Claims**

MOTION was made by Wenz, seconded by Graner to approve the payment of claims #22745 to #22810 and voided check #22748 in the amount of \$155,358.15.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve December Building Permits**

MOTION was made by Wenz, seconded by Graner to approve the December Building Permits #13-117 to #13-126.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***RESOLUTION #14-03/2014 Appointments**

MOTION was made by Wenz, seconded by Graner to approve Resolution #14-03 approving the 2014 appointments.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***RESOLUTION #14-04/Public Works Uniform Policy**

MOTION was made by Wenz, seconded by Graner to approve Resolution #14-04 approving the public works uniform policy.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***2014 Council Liaison/Committee List**

MOTION was made by Wenz, seconded by Graner to approve the 2014 council liaison and committee list.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***RESOLUTION #14-05/Establishing Date for 2014 Local Board of Appeal & Equalization**

MOTION was made by Wenz, seconded by Graner to approve Resolution #14-05 establishing the date for the 2014 Local Board of Appeal and Equalization as April 8, 2014 at 7pm.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Employee Wage Increase/Duda**

MOTION was made by Wenz, seconded by Graner to approve a three percent (3%) increase in wages for receiving his Type IV Biosolids License, his new hourly rate will be \$24.84 effective pay period 1.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Hire City Administrator/Special Counsel - Madsen**

MOTION was made by Wenz, seconded by Graner to authorize hiring Dan Madsen as the new City Administrator and Special Counsel with the following conditions: Title: "Administrator and Special Counsel", Annual Salary \$100,000.00, no health or dental benefits, short/long term benefits paid by the city, 15 day paid vacation for the first year (three weeks), 8 days sick leave allowed per year, twelve paid holidays per personnel ordinance, PERA benefits, city will pay malpractice insurance \$650 per year, and legal education training necessary to maintain license at an estimated \$1,400 per year.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Approve Animal Humane Society Contract**

MOTION was made by Wenz, seconded by Graner to approve the Animal Humane Society contract.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

***Submit Pay Equity Implementation Report to the State of Minnesota**

MOTION was made by Wenz, seconded by Graner to submit the Pay Equity Implementation Report to the State of Minnesota

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

15 Year Employee Recognition/Marllys Elsen

Remove for future meeting.

1000 Heart Presentation

Pastor Keith Robinson and Annette Tryon presented the Council with and update regarding the 1000 Hearts Crow River Service Day. A video was shown recapping the 2013 event including pictures of some of the 50 projects towards: Health, Hunger and Habitation. The projects included: pancake breakfast, Rockford Middle School landscaping, Greenfield road side & city park, single mom oil changes, Stork House yard work, preparing four community gardens, free haircuts & a hair donation, free family photograph, packing of 5400 meals and paying for 10,000 at Youth With a Mission, Riverwood Church housekeeping & landscaping, health services in downtown Rockford – massages, dental care, 50 health screenings, bloodmobile, pregnancy screenings, cemetery clean-up, 24 fire hydrant painted, plumbing, and clean-up in the Lion's Park. This work was completed by 200 volunteers.

The committee appreciates the City of Rockford's support. They want to work with the city on projects and are open to suggestions. This year they propose to continue painting the fire hydrants, add another dentist & bloodmobile, more health services, continue working in the cemetery, would like to beautify a store/building front, find seniors citizens in need of house/yard assistance, maybe some river bank clean-up, Rockford Mall yard/parking lot clean-up & maybe add flower pots, collection of gently used sports equipment and check to see if the Fire Department would consider moving pancake breakfast to coordinate with the 1000 Hearts Crow River Service Day on May 18th.

The 2014 1000 Hearts Crow River Service Day will take place on Saturday, May 18, 2014. The committee meets the third Monday of the month if anyone is interested in assisting.

Purchase Toro Ground Master 4010-D

Public Works Supervisor Peterson stated the Parks Department would like to replace the 2001 Toro GM 4000 mower. The mower is thirteen years old and had 2,650 hours logged. They would like to replace the mower before problems develop and before the value drops. The state bid price for the Toro Ground Master 4010-D is \$68,366.35 and a trade-in for the 2001 Toro Ground Master GM 4000 is \$8,000 for a total cost of \$60,355.35 plus tax.

This was in the equipment replacement plan in 2011, but staff decided to hold off. The cost to replace this equipment is in the Capital Improvement Plan (CIP) for replacement this year. If the purchase is held off longer, the price is expected to go up 8-10% because of the mandated Tier 4 Emissions Compliance.

Staff was recommending the machine be leased, but after Council discussed they do not feel it is necessary to pay interest when the funds are in CIP.

Darcy Desens noted the new equipment comes with a two year warranty and does not recommend any additional warranty at this time.

MOTION was made by Martinson, seconded by Wenz to approve the trade in of the current 2001 Toro Lawn Mower and to approve the purchase of a 2013 Toro Ground Master 4010-D for a purchase price not to exceed \$60,366.35 plus tax. The funds will come out of the equipment CIP Fund.

MOTION CARRIED - Voting in favor: Hafften, Graner, Martinson and Wenz.

Rockford Mall Purchase Agreement

Attorney Michael Couri reviewed the agreement for the purchase of the Rockford Mall. He noted the following:

- Exhibits need to be added and approved (paragraph 1 A)
- Personal property (some maintenance supplies – not much) make a list (p1 B)
- Equipment – do a walk through and make a list (p1 B)
- 1% down contingent upon title not clear money returned or if the City backs out for other reasons the money is not returned (p2)
- Title examination – ALTA Survey (Wenck to survey the property/utilities – what is out there) may change based on findings (p3)
- 30 days to make objections (including leases) (p3)
- Survey to City once purchase agreement is signed (p3 B)
- Title work and leases separate from contract. If the city choose not to continue the services, the owner needs to clear the contracts (p3 C)
- Easements & Relocation (common area concerns) do they interfere with the cities intended use and if objections, need to explain (p3 C)
- General warranty deed as listed (p4)
- 30 days are important – warranty deed (p4 D)
- Buyer provides within 30 days any documents (p5)
- Inspections – hold harmless 48 hours to appeal (p6)
- Purchase the property “as is” with some warranties (p6)
- Operations – requires the seller to run as prior (no new leases or terminations, carry insurance, etc.) (p7)
- Sellers Representation and Warranties (p8)
 - (p8 D) – provisions don’t conflict
 - (p8 E) – equipment is similar to July 1, 2013 – had to prove
 - (p8 F) – Exhibit B security deposits transfer to the City and owed to tenants

- (p8 G) – All contracts will be terminated unless except those the city chooses to keep
- (p8 H) – Violations
- (p8 I) – no wells
- (p8 J) – none known
- (p8 K) – none known
- (p8 L) – no asbestos
- (p8 M) – no hazards – Phase I Environmental Review to be complete: property records, aeriels – looking for hazardous issues. If Phase I is good, no further reports, but if items are found go to Phase II and notify the seller within 30 days (due diligence) may request and additional 30 day if proceeding to Phase II (more intense).
- (p8 N) – standard (seller)
- (p8 O) – Pay for all material on or before the close date
- (p8 P) – Owner of personal property

Warranties on environmental issue want permanent – Couri will address. If problems prior to closing the City can back out. Also after closing (iii) go back to.

- Buyer representation and warranties – City Council has approval and allows the Clerk and Mayor to sign with approval. Funds portion removed. If the City violates the warranty the seller can back out (p9)
- Closing date of April 4, 2014 can be moved back (p10)
- Leases assigned to the City (p10 A 9)
- Security deposits (p10 A 10)
- Any the City wants to keep (p10 A 11)
- Termination of TIF agreement prior to contract (2013 & 2014 portion up to closing date). Terminate after county tax settlement (Exhibit D). Mary Epple can re-TIF is under the law – only one per property) (p10 A 12)
- Estoppel Certificates – not buying into a lawsuit (p10 A 15)
- Closing Documents and Wire Transfer – form 8283 (p10 B 4)
- Prorations – Title Commitment – City to purchase title insurance (p11 A)
- Rents all Current (p11 E) – however if designated
- Financing costs – city pays all the costs (p11 F)
- Buyer contingencies (p12)
- Title Section is in section 3 – make good at closing (p12 A)
- City accepts financing and makes good faith effort to get financing (p12 B)
- Approve maintenance agreements by buyer – keep only the ones the city wants to continue (p12 E)
- No restrictions on the City's use of the real property (p12 F)
- Have a couple of inspections – HVAC study to see if still working, do a walk through with the owner and find out it is what you believe it to be. After signing and before closing. (p12 G)

Contingencies – contractor on property, about six weeks after signing

- Phase I – notify if problems and go to Phase II – report back within 30 days. The city can back out or request an extension.

- Seller will not change property without the buyers consent (p13)
- Risk of loss is on the seller – insurance/3rd party claims (p14)
- Assignment – City Council will purchase (not HRA – Couri will verify with Mary Epple) (p16)
- Walk through shortly before closing (p19)
- Broker fee (P20)
- Donation – buyer believes the property is worth more than selling price. From 8283 – the city acknowledges but does not have to agree with the donation value – the buyer understands (p27)
- HVAC – take building with current issues on equipment, but want in the same condition – before due diligence. Seller escrows \$10,000 and this allows two months to complete repairs or return the funds to the seller (p28)

Mayor Hafften excused herself from the meeting at 8:25pm and turned the meeting over to Deputy Mayor Graner.

Council Member Graner is concerned that the HVAC cost will be more than the \$10,000 escrow. The City will have the HVACs tested in late February or early March before due diligence and get an estimated cost.

Administrator Carswell had a concern regarding a zoning violation of vehicle maintenance and overnight parking. Attorney Couri stated this should be called out and identified during the due diligence if violation continues.

Council Member Martinson is concerned about the HUD issue should the city decide to change the entry way into the mall. Attorney Couri stated this issue would be listed in the title work.

MOTION was made by Martinson, seconded by Wenz to approve the purchase agreement for the Rockford Mall subject to final review and approval by the City Attorney, and approval of exhibits by the City Attorney & City Administrator.

MOTION CARRIED - Voting in favor: Graner, Martinson and Wenz.

MOTION was made by Wenz, seconded by Graner to order a Phase I Environmental Study, Alta Survey and an inspection of the HVAC prior to the closing.

MOTION CARRIED - Voting in favor: Graner, Martinson and Wenz.

Administrator's Report

The Administrator's report included status of the following: hired new Administrator, Wenck is working on the feasibility study for the proposed West Industrial Park, Personnel Committee is meeting to review the compensation schedule and will present at the next meeting, a team building meeting should be scheduled in the future, staff met with Rural Water Association to go over the water and sewer rates & discussed a base rate – they will bring back a recommendation to a future meeting, the Historical Committee met to discuss the contract, grant writing and

maintenance, the Fire Department Committee recommended approving Chief Sanderson for a three-year term & Assistant Chief Buoy for a two-year term – terms were staggered for training purposes, and there will be an HRA meeting prior to the January 28th City Council meeting.

Engineer’s Report

The Engineer’s report included updates on the following: wastewater treatment facility is still pending approval and Wenck is working with staff and developer to incorporate remaining necessary information to complete the feasibility report.

Council Reports

Graner – nothing to report

Martinson – nothing to report

Wenz – nothing to report

OPEN FORUM

Deputy Mayor Graner called for open forum. No one from the public spoke.

ADJOURNMENT

MOTION was made by Wenz, seconded by Graner to adjourn the meeting.

MOTION CARRIED - Voting in favor: Graner, Martinson and Wenz.

Deputy Mayor Graner adjourned the meeting at 8:45 p.m.

Jeannette Graner, Deputy Mayor

Nancy Carswell, Administrator