

**CITY OF GREENFIELD
CITY COUNCIL MINUTES
October 18, 2016**

The City Council of the City of Greenfield, Minnesota, met in regular session on Tuesday, October 18, 2016, at 7:00 p.m. in the council chambers at 6390 Town Hall Drive.

1. Call Meeting to Order

Mayor Johnson called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

3. Roll Call

Members present: Mayor Brad Johnson; Councilors Tom Cook, Mike Erickson, and Mike Hoekstra

Members absent: Councilor Mark Holten

Staff present: City Administrator Bonnie Ritter, Assistant to City Administrator Margaret Webb, and City Attorney John Thames

4. Approve agenda

MOTION by Cook, seconded by Erickson to approve the agenda. All voted in favor. Motion carried.

5. Public Comment/Response to Public Comment

Ron Kohnen, 5525 Harff Road, wanted to comment about the stormwater assessment and the Mayor stated that he could comment during the public hearing on that topic.

Gordon Thomas, 8180 Vernon Street, questioned the legality of charging the stormwater fee to properties in Ag Preserve. He thinks that the City and City Attorney are incorrect in the interpretation of state statute and thinking that they can charge the stormwater fee to properties in the Ag Preserve classification.

Larry Winter, 8100 Schendel Lake Drive, stated he has over 100 acres, yet he's being assessed as though he didn't have 100 acres, but being charged more because he has three separate parcels. He's talking to the County to see if he can combine those three PIDs into one. He would like the Council to change what staff is trying to charge for the three separate parcels.

Mayor Johnson responded to public comment offered by Mr. Lepore at the last meeting by stating that Pioneer Trail improvements were ordered and work has started. As far as the Public Works vehicle, there was a DOT inspection and repairs were made to pass that inspection. The safety issue remains because of the extensive corrosion of the body and body mounts.

6. Consent agenda

MOTION by Cook, seconded by Hoekstra to approve the consent agenda. All voted in favor. Motion carried.

A. Approve payment of claims in the amount of \$40,659.42

Check #26923-26951

General Fund	\$37,430.31
Industrial Park Water	\$ 15.85
Industrial Park Sewer	\$ 45.43
Stormwater Management	\$ 975.33
Developer Escrow	\$ 2,192.50

B. Approve minutes of the October 4, 2016 Council workshop

C. Approve minutes of the October 4, 2016 Council meeting

7. Public Hearing - Public hearing on proposed assessments for delinquent recycling, Lake Sarah sewer, street lighting, stormwater, municipal sewer and water, and miscellaneous city services.

Ritter stated that notice was duly published and posted according to state statute, and individual hearing notices were mailed to all effective properties owners, with their specific amount owing noted therein.

MOTION by Erickson, seconded by Hoekstra to open the public hearing at 7:07 p.m. All voted in favor. Motion carried.

The Council received copies of letters submitted via mail or in person at City Hall, from the following three property owners, expressing their objection to the stormwater utility fee: Del Erickson, 8605 Vernon Street; Alvin & Gayle Bursch, 5130 Harff Road; and Joel Nystrom, 7780 State Highway 55.

Gordon Thomas, 8180 Vernon Street, stated he spoke earlier at the meeting regarding the assessment for stormwater. One of the things that the City has done is, on his property in one case, when they paved Vernon Street they treated him like he was in Ag Preserve. In other words, he was assessed for the improvement of Vernon Street for one lot, which corresponds with recognizing that he's in the Ag Preserve District. On the other hand, when it came to this stormwater assessment, he's now assessed for multiple lots. He thinks that what the City is doing and how they interpret Ag Preserve is arbitrary and capricious. It's not been consistent since 1999 when his second parcel went into Ag Preserve. The law was first enacted in 1965 and he knows there are property owners present whose property has been in the program since then.

Ron Kohnen, 5525 Harff Road, stated he feels the same way that Mr. Thomas does, and his property has been in Ag Preserve that long. He operates roughly 19 properties in the City, and this assessment is not helpful for the rent on these properties. He feels the Council is not working for the citizens of Greenfield when they do something like this and it's just another way to get money for funding things that are not necessary, like the Lake Sarah Watershed. He asked if we can get some ditches cleaned, like the ones between Schwappauff Lake and Hafton, because they are totally plugged, causing the water to back up further onto crop land. That should be a watershed project, not for landowners. It's a public ditch that was cleaned up many years ago and the City picked up the tab, not the landowners

because it benefits the whole City. Mayor Johnson stated that the City can't go on private land to do projects and the City is mandated by the State law to be in a watershed so we are in compliance with the law. This stormwater fund was established so that we can do ditching and culvert projects and deal with stormwater, and maintain the stormwater ponds. Kohnen stated that when the ponds were put in it should have been determined that the homeowners would take care of them. It should be the homeowners project. Johnson stated that the intent of those ponds is to hold back the water so pollutants settle out before it gets to streams and ditches.

Larry Winter, 8100 Schendel Lake Drive, stated that the property that they have, close to 250 acres, a lot of it is marsh and a stormwater control situation just as it sits there. To be charged what we're being charged through a technicality of numbers assigned to the properties as it's set up is just plain wrong.

Loren Harff, 9225 Greenfield Road, stated that Mr. Kohnen is right. This Council is not working for the people. This should not have been implemented. This is everyone's problem, not just the big landowners. He said that Cook brought this up and the rest of the Council went for it.

Gordon Thomas, 8180 Vernon Street, as Mr. Kohnen brought up the example, he has Ditch #9 which comes through the corner of his property, drains 2600 acres out of Hafton, across Greenfield Road and across Meadows of Whisper Creek to the Crow River. He's continually maintaining that to keep the flow open and paid to have it dredged about 15 year ago. He didn't get any reimbursement from that yet it benefits everyone living around Lake Hafton and Greenfield Road. This summer he went to Tractor Supply and noticed all of the people there are mowing around the streets and blowing all of the grass and clippings into the stormwater drains. He took a number of pictures and if serious about stormwater and keeping the stormwater drains open, the City should educate staff on how to maintain clean stormwater systems. There's a lady in Washington County that comes out and specifically educates cities on maintaining stormwater drains. He's cleaned the drains out himself on Vernon and along 85th Street, which he shouldn't have to do. On one hand assessing the ag folks, yet they're the ones that see where the City is missing the boat on this stuff.

Lori Thomas, formerly of 8180 Vernon Street, asked a clarifying question, if stormwater drains can't be maintained by the City if on private property? Mayor Johnson answered that the City does not have authority to go on private property. She asked the purpose of the stormwater assessment and Johnson stated that it is used to pay the watershed dues, ditches, stormwater ponds, and culverts are the highlights. Thomas asked how it relates if they are interconnected. If there is a culvert that interconnects with something that runs into a City street, where there is connection between the two properties, how does that play out in this scenario? What can the City do and what can the City not do? Where is the City supporting that drainage and where is it not? Johnson stated that the City has to maintain its culverts, for instance there was a culvert under Town Hall Drive that failed and was backing up water onto private property. The City went in and cleaned that out. There were some landowners on the Dance Hall Creek side that had culverts that were failing or not large enough so the City encouraged them to replace them because it was causing water backup onto other properties and the City Street. That property owner replaced his culvert but the City would not have authority to go onto private property to clean out ditches. Thomas asked if the clean-up from a public street causes a backup on private property or backup in a private drainage, how is that handled? Johnson stated the

improvement to the City street and the culvert that goes underneath it are designed to improve flow, and if it fails the City Engineer gets involved to find a remedy.

Cook stated that the stormwater fund was set up to handle the issues of ditches and watershed, with the whole idea behind it being that water runoff can be identified, with the latest mapping systems, back to an individual property. The Council's feeling was that if you can identify individual properties and situations on those properties, its best to try and charge them in accordance to their property, not in accordance with the general fund. The efforts put into this were substantial and the REF calculations used were based on the types of property in the City. The amount of money charged to commercial districts is representative to the amount of land that these commercial properties represent, and takes into account the runoff of things like parking lots. He stated he would be happy to sit down with anybody and go through the calculations and show them how that was done. Since this program was put into place he hasn't had one phone call as the representative to the Watershed, to talk about any of these issues and he's always available to do that. The City signed a joint agreement with five other cities to participate in the Pioneer-Sarah Creek Watershed. Whether that was the right decision is not up for debate at this time, but the fact of the matter is that the City is legally bound by a contract to deal with issues within the entire watershed. Whether or not projects get done in Greenfield doesn't really matter because we're part of that watershed. To say projects don't get done in Greenfield isn't an argument for not having a stormwater plan. It's a complicated issue and those with farm land realize the attention that runoff is getting in this state. It's not a situation where we can close our eyes and say this doesn't affect us. It affects us big time here in Greenfield, and we came up with what we thought was a very equitable way to handle this. The issue of numerous adjacent PIDs will be addressed before the next year. As to the ditch cleanout, to Mr. Thomas, Ditch #9 starts in Lake Hafton. Cook spent 1 ½ hours out there unplugging the drain because Lake Hafton was about a foot above normal. All of that water eventually got down to Mr. Thomas' property. Cook thinks that most of the people in the City do a fair amount of manual work in areas that aren't their exact responsibility and that is a credit to the concern about these issues. He's open to discuss this if anyone has a better idea how to handle it. Identifying certain activities to certain properties is a better way to do it than have it in the general fund. Runoff is determined differently from the way people use their properties and that is used to determine how this plan was implemented.

Gordon Thomas, 8180 Vernon Street, stated that Minnetrista charges 1 unit for Ag Preserve like every other house within Minnetrista. They charge everyone equally because everyone lives there. Different cities handle this differently. Greenfield's model seems to match Medina's, yet Medina has a lot more commercial property, and a lot more property wealth. He thinks the calculation may be similar to Medina, but if you net it out to the ability to pay, it's a lot different.

Erickson wanted to set the record straight, that he was the dissenting vote on the stormwater district. That being said, the reason he didn't vote for it was because he felt that the watershed fees should stay in the general fund. He believes it's easier to draw attention to the fact that the watershed doesn't delivery anything to the City and we pay just short of \$40,000/yr and we receive nothing. That was his argument. The one thing that the City is going to have to deal with is that there is no one else that will take care of our internal stormwater issues in the City. All of the holding ponds will need maintenance. We are going to be in for a rude awakening because we haven't dealt with any of the ponds yet and

some are over 20 years old. We don't know what state they're in and that's why communities are starting these funds. Fees could be \$20-\$30,000/pond. We do need this, and it has to be done.

Hoekstra reiterated what Erickson said. The law says we have to participate in a watershed and they have met with BWSR to find out if there are options that are less expensive. The Council will look at adjoining properties and reducing the property size tiers that are presently used. He asked for residents to call if they have better ideas.

Mayor Johnson stated that by creating a stormwater utility, those funds collected are dedicated to just stormwater activities, and this was one of the reasons why this appealed to him.

Gordon Thomas asked to give a closing thought. Stormwater has to be dealt with. When developers create developments with stormwater ponds, charge them for the first time it's going to have to be maintained in 20 years. Don't charge the farmers for development. Farmers are taking their water one way or another in this City, and not benefiting at all. The inequity of how it's being assessed is why we're here. On the Ag Preserve side it's being done inappropriately.

Mayor Johnson stated he appreciates the comments and feedback and as Councilor Cook mentioned, we also received feedback earlier this year and decided to look at how the fee structure lands on everyone, with different sized parcels, and may make changes for next year.

MOTION by Hoekstra, seconded by Erickson to close the public hearing at 7:39 p.m. All voted in favor. Motion carried.

(1) Adopt Resolution Adopting Assessment

MOTION by Erickson, seconded by Cook to adopt the following resolution. All voted in favor. Motion carried.

RESOLUTION NO. 16-33: RESOLUTION ADOPTING ASSESSMENT FOR DELINQUENT RECYCLING, LAKE SARAH SEWER, STREET LIGHTING, STORMWATER, MUNICIPAL SEWER AND WATER, AND MISCELLANEOUS CITY SERVICES – LEVY #19448 THROUGH #19453

8. Discussion/Action Items

A. Approval of preliminary and final plats for Jubert Hills Subdivision

Applicant Dave Jubert on behalf of joint owners of the subject parcel on Pioneer Trail, PID 2511924340004, has submitted a preliminary and final plat request to split the existing 20.23 acre property into two lots; one would be 9.77 acres and one would be 9.76 acres, with the remaining area dedicated to the City as right-of-way for Pioneer Trail. The Planning Commission reviewed the application at a public hearing on October 11, 2016 and unanimously recommended approval with conditions.

Hoekstra asked the applicant for insight or background on why he decided to only divide into two lots instead of three or four. Jubert answered that he was originally told he could have three lots but three wasn't feasible with the cost of a street taken into consideration. Erickson was concerned that the property isn't being divided to its potential.

MOTION by Cook, seconded by Johnson to adopt the following resolution. The following voted in favor: Johnson, Cook and Hoekstra. The following voted against: Erickson. Motion carried.

RESOLUTION NO. 16-34: RESOLUTION APPROVING THE PRELIMINARY AND FINAL PLAT FOR JUBERT HILLS

B. Discussion on usage of unimproved portion of Xenia Street within the City right-of-way

City Attorney Thames stated that this matter is being brought before the Council for consideration based on some comments made at the public comment forum at the meeting of September 20, 2016, by Leonard Jankowski. Specifically, it's the use of the unimproved City right-of-way that extends from the paved cul-de-sac on Xenia Street. Originally there was a complaint brought to the City about trucks traveling over this unimproved portion of Xenia Street over the City right-of-way. City staff went out and verified that it was a valid complaint, found some markers that were designating truck traffic in that area. Staff removed those markers, and after surveying the City right-of-way, the area was marked by City Staff and signed for no access. At the September 20th Council meeting Mr. Jankowski indicated that he had removed that sign and that he intended to continue to use the right-of-way, believing it was his right to do so. A copy of the plat is in the agenda packet, that shows canned language describing the right-of-way. Use of this area is within City discretion. Before the Council is a decision to make about how to allow use of the right-of-way. Thames continued by stating that there are three options that he sees: (1) to enforce the City's right to close that right-of-way and instruct Mr. Jankowski that he is to cease use; (2) in some way license him to do what he proposes to do; or (3) do nothing and allow him to continue to do what he's doing.

Jankowski asked who filed the complaint because he has the right to know. Thames stated that information is not public information.

Jankowski continued to express his displeasure with the City's reaction to this, and states that this is public property, not City property. Thames stated that the sign that Jankowski took wasn't on his private property, but was on the City property, and the City has the right to control this right-of-way.

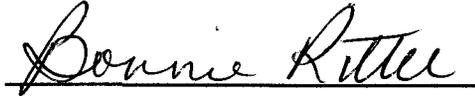
After discussion, the Council directed Thames to write a letter to Mr. Jankowski informing him that he needs to return the City sign that he took and discontinue the use of this unimproved right-of-way.

9. Information/Miscellaneous

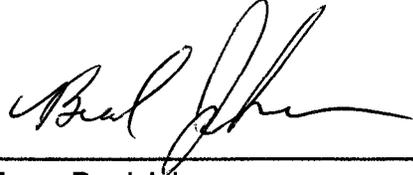
- A. Comments/reports from Mayor
- B. Comments/reports from Councilors
- C. Comments/reports from Administrator
- D. Correspondence

10. Adjourn

MOTION by Erickson, seconded by Hoekstra to adjourn at 8:21 p.m. All voted in favor. Motion carried.



Attest: Bonnie Ritter, City Administrator



Mayor Brad Johnson