

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Prior to business meeting the Council held a Capital Improvement Financing Workshop with Rusty FiField.

Vice Chairperson Wilcox called the meeting to order with the following members present: Wilcox, Jirik, Babione, Kratochvil. Absent: Mayor Sindelar.

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION 05-09-06-01

CITY OF NEW PRAGUE CONSENT TO ASSIGNMENT AND CHANGE OF CONTROL

WHEREAS, Time Warner Cable Inc. ("Franchisee") operates a cable communications system in the City of New Prague ("City"); and

WHEREAS, the Franchisee operates pursuant to Ordinance No. granting a cable communications franchise ("Franchise"); and

WHEREAS, pursuant to a Redemption Agreement dated April 20, 2005 by and among Comcast Cable Communications Holdings, Inc.; MOC Holdco II, Inc.; TWE Holdings II Trust; Cable Holdco II Inc. and Time Warner Cable Inc.: (1) the Franchisee's cable communications system and Franchise will be assigned to a wholly-owned subsidiary of Franchisee, to-wit: Cable Holdco II, Inc, and; (2) immediately thereafter, pursuant to the same Redemption Agreement, all of the stock of Cable Holdco II, Inc. will be acquired by MOC Holdco II, Inc., an indirect wholly-owned subsidiary of Comcast Cable Communications Holdings, Inc. The assignment and change of control described herein shall collectively be referred to as the "Transaction"; and

WHEREAS, the City has been provided FCC Form 394 and related information concerning the Transaction; and

WHEREAS, the City has considered the Transaction described above.

NOW, THEREFORE, BE IT RESOLVED THAT the City consents to the Transaction described above, subject to the following conditions:

1. The City will be provided written notice that the Transaction has been consummated on terms materially equivalent to those described above.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

2. Issuance of any required FCC approvals or authorizations associated with the Transaction.

3. Acceptance of this Resolution by MOC Holdco II, Inc. as provided below. Such acceptance shall constitute MOC Holdco II, Inc.'s acceptance of the Franchise and agreement to comply therewith upon consummation of the Transaction.

BE IT RESOLVED FURTHER THAT by consenting herein, the City does not waive, and expressly reserves, any rights it may have regarding compliance matters that arose prior to the date of this Resolution and may, consistent with applicable limitations periods, enforce the Franchise with respect to said matters to the extent provided therein. As of the date of this Resolution, the City has not notified the Franchisee of any Franchise violations.

This Resolution shall be effective upon satisfaction of the above conditions.

Council Member Jirik seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u>X</u>	<u>_____</u>
Jirik	<u>X</u>	<u>_____</u>
Kratochvil	<u>X</u>	<u>_____</u>
Wilcox	<u>X</u>	<u>_____</u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Motion Babione, Second Jirik.

Approve the following consent agenda items:

- A. Approve previous meeting minutes.
- B. Approve claims for payment.
- C. Approve July 2005 General Fund Financial.
- D. Application for Exempt Permit for New Prague Gymnastics Club on October 10, 2005.

Motion carried.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Council Member Kratochvil offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-02

RESOLUTION ACCEPTING BID FOR PROJECT

WHEREAS, pursuant to an advertisement for bids for the improvement of First Av. NW - North of 7th St. NW

Bids were received, opened and tabulated according to law, and the following bids were received complying with the advertisement:

Chard Tiling & Excavating Inc.	- \$430,964,65
Wm. Mueller & Sons Inc.	- \$435,325,60
Heselton Construction	- \$483,718.35

AND WHEREAS, it appears that Chard Tiling & Excavating of Belle Plaine, MN is the lowest responsible bidder.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEW PRAGUE, MINNESOTA:

1. The Mayor and City Administrator are hereby authorized and directed to enter into the attached contract with Chard Tiling & Excavating of Belle Plaine, MN in the name of the City of New Prague for the improvement of First Av. NW - North of 7th St. NW according to the plans and specifications therefore approved by the City Council and on file in the office of the City Administrator.

2. The City Administrator is hereby authorized and directed to return forthwith to all bidders the deposits made with their bids, except that the deposits of the successful bidder and the next lowest bidder shall be retained until a contract has been signed.

Council Member Babione seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
	<u>Absent</u>	<u>Absent</u>
Sindelar		
Babione	<u>X</u>	<u> </u>
Jirik	<u>X</u>	<u> </u>
Kratochvil	<u>X</u>	<u> </u>
Wilcox	<u>X</u>	<u> </u>

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague

}

City Council Meeting
Tuesday, September 6, 2005

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Jirik offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-03

RESOLUTION AWARDING BID FOR FLOORING

WHEREAS, bids were received for the supply and installation of City Hall flooring and were considered on August 15, 2005.

WHEREAS, revised bids were solicited and reviewed by the Council on September 6, 2005.

WHEREAS, the following revised bids were received.

Kubes Flooring	\$46,339.92
Hertaus Flooring	\$48,000.00
Fashion Interiors	\$67,894.00

WHEREAS, the specifications call for specific method of installation, and

WHEREAS, the apparent low bid cannot provide the specified method of installation.

WHEREAS, the lowest responsible bidder meeting all terms of the specifications is Hertaus Flooring.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of New Prague that the bid to supply and install City Hall flooring is hereby awarded to Hertaus Flooring the low bidder meeting terms and conditions of the specifications.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u>X</u>	<u> </u>
Jirik	<u>X</u>	<u> </u>
Kratochvil	<u>X</u>	<u> </u>
Wilcox	<u>X</u>	<u> </u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Mr. Mike Zagar, S E H, was present to review with the Council Waste Water Treatment options and process to submit facilities plan to M.P.C.A.
No action taken.

Discussion on limiting parking on TH 37 N. between TH 19 & 4th St. NE was held. No action taken pending consultation with Scott County.

Council Member Kratochvil offered the following Resolution and moved for its adoption.

RESOLUTION # 05-09-06-04

ORDINANCE # 203

ORDINANCE AMENDING SECTION 717 OF THE
NEW PRAGUE ZONING ORDINANCE TO ADD PARKING REQUIREMENTS FOR
STRIP MALLS/SHOPPING CENTERS AND FITNESS CENTERS,
NEW PRAGUE, MINNESOTA

WHEREAS, The City of New Prague Planning Department is requesting an amendment to Section 717 of the New Prague Zoning Ordinance to add parking requirements for strip malls/shopping centers and fitness centers; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request. A copy of said report has been presented to the City Council; and,

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

WHEREAS, the New Prague Planning Commission on the 24th day of August, 2005, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for approval subject to conditions contained in the staff report and those listed during the Planning Commission Meeting; and,

WHEREAS, the New Prague City Council finds:

1. The ordinance amendment complies with the purpose and intent of the New Prague Comprehensive Plan.
2. The amendment allows the City to effectively regulate the required minimum parking spaces for more uses within the City of New Prague.

NOW, THEREFORE BE IT ORDAINED, by the City Council of New Prague, Minnesota, that the amendment to Section 717 of the New Prague Zoning Ordinance is hereby granted as written:

The following is added to section 717(2)(A)(8) for Off Street Parking and Loading in the Zoning Ordinance:

<u>USE</u>	<u>SPACES REQUIRED</u>
Strip Malls/Shopping Centers under 100,000 sq. ft.	= 1 per 200 sq. ft. of floor area
Fitness Centers	= 1 per 200 sq. ft. of floor area

This Zoning Ordinance Amendment shall become effective upon its publication.

Council Member Jirik seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u> </u>	<u> X </u>
Jirik	<u> X </u>	<u> </u>
Kratochvil	<u> X </u>	<u> </u>
Wilcox	<u> X </u>	<u> </u>

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION # 05-09-06-05

ORDINANCE #204

ORDINANCE ESTABLISHING THE ZONING FOR
42.51 ACRES OF LAND TO THE RL-90
SINGLE FAMILY ZONING DISTRICT, NEW PRAGUE, MINNESOTA

WHEREAS, Randy Kubes, owner of the following real estate in the County of LeSueur to wit:

That part of the Southwest Quarter of Section 2 and part of the Southeast Quarter of Section 3, all in Township 112 North, Range 23 West, Le Sueur County, Minnesota, described as follows: Beginning at the South Quarter Corner of said Section 2; thence North 89 degrees 34 minutes 35 seconds West (assumed bearing) on the South line of said Southwest Quarter, 2632.46 feet to the Southwest Corner of said Section 2; thence South 89 degrees 13 minutes 13 seconds West on the South line of said Southeast Quarter, 270.12 feet; thence North 00 degrees 54 minutes 47 seconds East parallel to the East line of said Southeast Quarter, 400.17 feet; thence North 89 degrees 13 minutes 13 seconds East parallel to the South line of said Southeast Quarter, 270.12 feet to the East line of said Southeast Quarter; thence North 00 degrees 54 minutes 47 seconds East on said East line, 285.13 feet to the Southwest Corner of PRAGUE ESTATES EIGHTH ADDITION, according to the recorded plat thereof; thence South 89 degrees 24 minutes 48 seconds East on the South line of said PRAGUE ESTATES EIGHTH ADDITION, 2638.65 feet to the Southeast Corner of said PRAGUE ESTATES EIGHTH ADDITION; thence South 01 degrees 27 minutes 24 seconds West on the East line of said Southeast Quarter, 657.88 feet to the point of beginning. Said parcel contains 42.51 acres of land being subject to and together with any and all easements of record.

is requesting establishment of the zoning as RL-90 Single Family on the above property, also platted as Tikalsky Acres, New Prague, MN; and,

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report (#R1-2005) pertaining to said request for establishing zoning. A copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 24th day of August, 2005, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for approval; and,

WHEREAS, the New Prague City Council finds:

1. The subject property has been annexed into the City of New Prague.
2. The establishment of the land to the RL-90 Single Family Zoning District complies with the purpose and intent of the 2005 Comprehensive plan.

NOW, THEREFORE BE IT ORDAINED, by the City Council of New Prague, Minnesota, that establishing the zoning of the above described property as RL-90 Single Family Residential is hereby approved.

This Zoning Ordinance Amendment shall become effective 30 days after publication.

Passed this 6th day of September, 2005.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
	<u>Absent</u>	<u>Absent</u>
Sindelar	<u> </u>	<u> </u>
Babione	<u> X </u>	<u> </u>
Jirik	<u> X </u>	<u> </u>
Kratochvil	<u> X </u>	<u> </u>
Wilcox	<u> X </u>	<u> </u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Council Member Kratochvil offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-06

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
DENYING A VARIANCE TO ALLOW A 6' VARIANCE FROM THE REQUIREMENT
THAT SINGLE FAMILY DWELLINGS BE SETBACK A MINIMUM OF 7' FROM A
SIDE PROPERTY LINE TO ALLOW A SINGLE FAMILY DWELLING TO BE 1'
FROM THE WEST SIDE PROPERTY LINE IN THE RL-84 SINGLE FAMILY
RESIDENTIAL ZONING DISTRICT, NEW PRAGUE, MINNESOTA.

WHEREAS, Laurie Jean Rasmussen, owner of the following real estate in the County of Scott to wit:

Lot 1 except the east 55.0 feet thereof, Block 14,
PHILIPP'S ADDITION MODIFIED, Scott County, Minnesota.

is requesting a 6' variance from the requirement that single family dwellings be setback a minimum of 7' from a side property line to allow a single family dwelling to be 1' from the west side property line in the RL-84 Single Family Residential District; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (V4-2005), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 24th day of August, 2005, after due consideration of presented testimony and information, voted 3-1 to forward the matter to the City Council with a recommendation for denial; and,

WHEREAS, the New Prague City Council finds:

The literal interpretation of the provisions of the Zoning Ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. The applicants have a 41' wide area in which to build a new single family home whether it is the house style proposed placed on the lot differently or an entirely new home style.

Granting the variance requested would confer on the applicant a special privilege that would be denied by the zoning ordinance to owners of other lands, structures or buildings in the same district. Side yard setback reduction would not be viable elsewhere in this area as the lots and houses are typically very close together and a reduction would cause a safety concern.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

The variance requested is not the minimum variance which would alleviate the hardship. Economic conditions alone shall not be considered a hardship. The applicant can put the house on the lot in a different configuration to meet setbacks and also could find a different house style that could fit on the lot without variance.

The variance would be materially detrimental to the purpose of this ordinance, to other property in the same zone, and will adversely affect the neighborhood because there are alternate solutions that do not require a variance which will provide the applicant reasonable use of the property.

And noting that:

1. Alternate configurations exist that would allow the applicant to build the proposed single family home placed on the lot differently or a different house style on the lot without needing a variance.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, Minnesota, that the request for variance #V4-2005, to allow a 6' variance from the requirement that single family dwellings be setback a minimum of 7' from a side property line to allow a single family home to be 1' from the west side property line in the RL-84 Single Family Residential District, as proposed by Laurie Jean Rasmussen is hereby denied based on the above findings.

This Variance denial becomes effective immediately upon its passage and without publication.

Council member Babione seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u>X</u>	<u> </u>
Jirik	<u>X</u>	<u> </u>
Kratochvil	<u>X</u>	<u> </u>
Wilcox	<u>X</u>	<u> </u>

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-07

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
DENYING A VARIANCE TO ALLOW A 13' VARIANCE FROM THE REQUIREMENT
THAT PORCHES BE SETBACK A MINIMUM OF 30' FROM A REAR PROPERTY
LINE TO ALLOW A PORCH TO BE 17' FROM THE REAR PROPERTY LINE IN
THE RM MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT,
NEW PRAGUE, MINNESOTA.

WHEREAS, Arden W. and Darlene F. Hull, owners of the following real estate in the County of Scott to wit:

Lot 3, Block 3, Prague Estates Sixth Addition, LeSueur County, Minnesota.

are requesting a variance to allow a 13' variance from the requirement that 3/4 season porches be setback a minimum of 30' from a rear property line to allow a 3/4 season porch to be 17' from the rear property line in the RM Medium Density Residential District; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (V5-2005), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 24th day of August, 2005, after due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for denial; and,

WHEREAS, the New Prague City Council finds:

Special circumstances exist as a result of the actions of the applicants because of the proposed screen porch. There is not a hardship in that the applicant has use of an existing patio and that the building of a screen porch makes any hardship self created.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Granting the variance would confer onto the applicant a special privilege that would be denied to owners of other lands, structures and buildings in the same district, in that other property owners are required to maintain a 30' rear yard setback for placement of a home or porch.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, Minnesota, that the request for variance #V5-2005, to allow a 13' variance from the requirement that porches be setback a minimum of 30' from a rear property line to allow a porch to be 17' from the rear property line in the RM Medium Density Residential District, as proposed by Arden W. and Darlene F. Hull is hereby denied based on the above findings.

This Variance denial becomes effective immediately upon its passage and without publication.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
	<u>Absent</u>	<u>Absent</u>
Sindelar	_____	_____
Babione	_____	<u> X </u>
Jirik	_____	<u> X </u>
Kratochvil	_____	<u> X </u>
Wilcox	<u> X </u>	_____

Thereupon Vice Chair Wilcox declared said resolution failed this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-07A

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL
APPROVING A VARIANCE TO ALLOW A 13' VARIANCE FROM THE
REQUIREMENT THAT PORCHES BE SETBACK A MINIMUM OF 30' FROM A REAR
PROPERTY LINE TO ALLOW A PORCH TO BE 17' FROM THE REAR PROPERTY
LINE IN THE RM MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT,
NEW PRAGUE, MINNESOTA.

WHEREAS, Arden W. and Darlene F. Hull, owners of the following real estate in the County of Scott to wit:

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Lot 3, Block 3, Prague Estates Sixth Addition,
LeSueur County, Minnesota.

are requesting a variance to allow a 13' variance from the requirement that 3/4 season porches be setback a minimum of 30' from a rear property line to allow a 3/4 season porch to be 17' from the rear property line in the RM Medium Density Residential District; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (V5-2005), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 24th day of August, 2005, after due consideration of presented testimony and information, voted unanimously to forward the matter to the City Council with a recommendation for denial; and,

WHEREAS, the New Prague City Council has further evaluated the request for variance and has found, contrary to the Planning Commission recommendation, the following to be true:

The existing townhouse structure has been placed exactly at the 30' rear yard setback required by the Zoning Ordinance.

Exceptional circumstances apply to this property that do not apply generally to other properties in the same vicinity resulting from the angle at which to townhouse building was constructed and its relation to the rear property line.

A special circumstance exists that is not a result of actions of the applicant, as the applicant did not place the building on the lot at an angle that restricts them from meeting the 30' setback requirement.

The variance being requested is the minimum variance that would alleviate the hardship.

Granting the variance would not confer onto the applicant a special privilege that would be denied to owners of other lands, structures and buildings in the same vicinity, in that other property owners in the vicinity would be able to place a porch at the required 30' setback.

The variance being requested would not be materially detrimental to the purpose of the Zoning Ordinance.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, Minnesota, that the request for variance #V5-2005, to allow a 13' variance from the requirement that porches be setback a minimum of 30' from a rear property line to allow a porch to be 17' from the rear property line in the RM Medium Density Residential District, as proposed by Arden W. and Darlene F. Hull is hereby approved based on the above findings.

This Variance approval becomes effective immediately upon its passage and without publication.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	Absent	Absent
Babione	<u>X</u>	_____
Jirik	<u>X</u>	_____
Kratochvil	<u>X</u>	_____
Wilcox	_____	<u>X</u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-08

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT is made and entered into as of the 6th day of September, 2005, by and among INDEPENDENT SCHOOL DISTRICT NO. 721, a body politic and corporate under the laws of the State of Minnesota ("District"), RAVEN STREAM VILLAGE DEVELOPMENT, INC., a Minnesota corporation ("Assignor"), and CITY OF NEW PRAGUE, a body politic and corporate under the laws of the State of Minnesota ("Assignee").

RECITALS

A. Assignor and District are parties to that certain Amended and Restated Donation Agreement dated as of July 26, 2005

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

(together with any and all amendments, renewals, extensions, replacements or other modifications thereto, collectively referred to as the "Donation Agreement"), under which Donor has agreed to donate and District has agreed, subject to the conditions stated therein, to accept and receive certain land situated in Scott County, Minnesota, consisting of 15.07 acres of real property, legally described as follows:

Lot 1, Block 1, Raven Stream Village First Addition,
Scott County, Minnesota;

B. Pursuant to the Donation Agreement, the District, Assignor and First American Title Insurance Company, a California corporation ("Escrow Agent"), entered into that Escrow Agreement, dated as of July 26, 2005 (the "Escrow Agreement"), a copy of which is attached hereto as Exhibit A, pursuant to which District delivered to Escrow Agent, to be held in escrow pursuant to the Escrow Agreement, the sum of One Million and No/100ths Dollars (\$1,000,000.00) representing the Public Improvements Payment (the "Public Improvements Payment") called for under the Donation Agreement (the "Escrowed Funds");

C. Pursuant to the Donation Agreement, within ten (10) days following the occurrence of the "Escrow Release Conditions", as that term is defined in the Donation Agreement (the "Escrow Release Conditions"), and subject to such other conditions as are set forth in the Donation Agreement, the District is obligated to cause to be paid over to Assignor the Public Improvements Payment;

D. Assignor and Assignee are parties to that certain Developer's Agreement for Raven Stream Village First Addition, dated August 18, 2005 (the "Developer's Agreement"), by and between Assignee, as city, and Assignor, as developer, pursuant to which Assignor is obligated to construct and install certain "Improvements", as that term is defined in the Developer's Agreement, including without limitation the "District Property-Related Public Improvements", as that term is defined in the Donation Agreement;

E. Pursuant to Section 3.7 of the Developer's Agreement, Assignor has effected a cash deposit with Assignee in the amount of \$1,524,163.00 (the "Cash Deposit"), representing a portion of Assignor's deposit obligations thereunder;

F. As of the date hereof, and although not all of the Escrow Release Conditions have yet occurred Assignor has requested that

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

District accommodate Assignor's efforts to satisfy Assignor's aforementioned deposit obligations under Section 3.7 of the Developer's Agreement by consenting to an assignment to, and assumption by, Assignee of Assignor's rights and obligations under the Escrow Agreement, but without waiver or release by District of its rights thereunder;

G. Pending receipt by Assignee of replacement letters of credit complying with Section 3.7 of the Developer's Agreement, Assignee has agreed to accept and assume an assignment of Assignor's rights and obligations under the Escrow Agreement as hereinafter provided, together with the Cash Deposit, as temporary satisfaction of Assignor's obligations under Section 3.7 of the Developer's Agreement;

H. In accordance with the foregoing, Assignee wishes to assume, and the District has agreed to allow the assumption by Assignee of, the Assignor's rights and obligations under the Escrow Agreement, all as more fully provided below.

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto agree as follows:

1. Assignment.

(a) Subject to Section 1(b) below, Assignor hereby assigns and transfers all of its rights and obligations under the Escrow Agreement to Assignee (the "Assigned Rights and Obligations"), and Assignee hereby accepts and receives such assignment and transfer, and assumes and agrees to keep and perform all of the obligations of Assignor under the Escrow Agreement.

(b) In the event of, and contemporaneous with, the delivery by Assignor to Assignee of a letter of credit, in replacement of both the Cash Deposit and the assignment of Assigned Rights and Obligations pursuant to Section 1(a) above (collectively, the "Original Collateral"), satisfying in all respects the then applicable requirements set forth in Section 3.7 of the Developer's Agreement for replacement of the Original Collateral by such letter of credit, the following shall apply:

(i) Without further action or notice by any party, the Assigned Rights and Obligations shall be deemed automatically reassigned and transferred by Assignee to Assignor;

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague

}

- (ii) All of Assignee's rights and obligations under the Escrow Agreement, including without limitation the Assigned Rights and Obligations, shall be deemed automatically terminated;
- (iii) Assignor shall be deemed to have accepted and received such assignment and transfer, and to have assumed and agreed to keep and perform all of the obligations of Assignee under the Escrow Agreement; and
- (iv) Assignee shall promptly, not later than three (3) days from and after the date of receipt of such letter of credit, deliver to each of Assignor, District and Escrow Agent a Notice of Reassignment in the form attached hereto as Exhibit B.

2. District hereby consents to the transfer and assignment of all of Assignor's rights and obligations under the Escrow Agreement, and to the assumption of such rights and obligations by Assignee, pursuant to Section 1(a) above, and to any transfer and reassignment of all of Assignee's rights and obligations under the Escrow Agreement, and to the assumption of such rights and obligations by Assignor, pursuant to Section 1(b) above, but in each case without waiver or release by District of its rights thereunder or under the Donation Agreement (including without limitation all of District's rights to notice under the Escrow Agreement, of District's rights to request disbursement of, or to consent to or withhold consent in connection with any disbursement of, the principal amount of the "Escrowed Funds" (as defined in the Escrow Agreement), or of District's rights to any accrued interest comprising a portion of such Escrowed Funds).

3. Notices.

(a) In the case of any notices to be given to Assignee hereunder, or under the Escrow Agreement during the period of Assignor's transfer and assignment to Assignee of the Assigned Rights and Obligations and Assignee's receipt and retention thereof, such notices shall be given in the manner set forth in Section 4 of the Escrow Agreement, addressed to Assignee as follows:

City of New Prague
City Hall
118 Central Avenue North
New Prague, MN 56071
Attn: Ms. Renee Christianson

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

With a copy to:

Scott Riggs, Esq.
Kennedy & Graven
470 U.S. Bank Plaza
200 South 6th Street
Minneapolis, Minnesota 55402-1458

(b) Subject to Section 3(c) below, in the case of any notices to be given hereunder to any of Assignor, District and/or Escrow Agent, such notices shall be given in the manner set forth in Section 4 of the Escrow Agreement.

(c) Prior to the occurrence of any reassignment by Assignee to Assignor of the Assigned Rights and Obligations, pursuant to Section 1(b) above, District and Assignee, as applicable, shall contemporaneously copy Assignor on each and every written instruction, notice or demand provided for in Section 3 of the Escrow Agreement, including without limitation any demand for payment of any portion of the principal amount of the Escrowed Funds.

4. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing, but only by an instrument in writing duly executed by the parties hereto.

5. The consent to the assignment and transfer referred to herein shall not be deemed a consent or agreement by District to consent to any future assignment or transfer.

6. This Agreement and each and every part hereof shall be binding upon the parties hereto and their successors and assigns.

7. This Agreement is delivered in and made and shall in all respects be construed according to the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u>X</u>	<u> </u>
Jirik	<u>X</u>	<u> </u>
Kratochvil	<u>X</u>	<u> </u>
Wilcox	<u>X</u>	<u> </u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

Discussion of City Code Chapter 91-B regulation prohibiting overnight parking in park and recreation areas was held. Consensus of Council that regulation should remain. No action taken.

Council Member Babione offered the following Resolution and moved for its adoption.

RESOLUTION #05-09-06-09

RESOLUTION ADOPTING 2005 PAYABLE 2006 PRELIMINARY TAX LEVY

BE IT RESOLVED by the City Council of the City of New Prague, Counties of Scott and Le Sueur, Minnesota that the 2005 payable 2006 preliminary net tax levy be set at NTC - \$2,419,159 - MV \$59,000.

BE IT FURTHER RESOLVED, that the City Administrator is hereby instructed to forward copies of this resolution to the Auditors of Scott and Le Sueur Counties.

BE IT FURTHER RESOLVED that the date for the 2005 payable 2006 Truth in Taxation Hearing is hereby established for December 5, 2005 at 5:00 p.m. and the continuation hearing (if necessary) is hereby established for December 12, 2005 at 5:00 p.m.

City Council Proceedings

State of Minnesota
Counties of Scott & Le Sueur
City of New Prague



City Council Meeting
Tuesday, September 6, 2005

Council Member Jirik seconded said Resolution and upon roll call the following vote was recorded.

	<u>AYES</u>	<u>NAYES</u>
Sindelar	<u>Absent</u>	<u>Absent</u>
Babione	<u>X</u>	<u> </u>
Jirik	<u>X</u>	<u> </u>
Kratochvil	<u>X</u>	<u> </u>
Wilcox	<u>X</u>	<u> </u>

Thereupon Vice Chair Wilcox declared said resolution adopted this 6th day of September, 2005.

Kay Wilcox, Vice Chair

ATTEST:

Jerry Bohnsack, City Administrator

There being no further business, the meeting was adjourned.

Jerry Bohnsack
City Administrator