

City Council Proceedings

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

} City Council Meeting  
Monday, July 15, 2019

Mayor Nickolay called the meeting to order at approximately 6:00 p.m. with the following Councilmembers present: Nickolay, Ryan, Bass, Seiler and Wolf.

Staff Present: Mike Johnson, Ken Ondich, Jim Gareis, and Glen Sticha

Others Present: Scott Riggs, Kennedy & Graven, Sue Roushar, Terri Heuton - Baker Tilly and Jon Peterson - Bolton & Menk

Mayor Nickolay amended the Agenda to include a provision left out of the July 1, 2019 minutes, ahead of the Consent Agenda and a memo from the City Attorney. It was moved by Seiler seconded by Bass to approve the Agenda. All voted in favor, motion carried. (5-0)

Mayor Nickolay presented a plaque to Suzanne (Sue) Roushar recognizing her for serving the City of New Prague as Police Records/Clerk-Typist in the New Prague Police Department. According to Police Chief Gareis, Sue has always been soft-spoken, compassionate, extremely humble, dependable, and has always shown the highest level of integrity. Sue's work experience over the past 25+ years will be tremendously missed. Sue will be retiring on July 31, 2019 and we wish her well in her upcoming retirement years.

It was moved by Bass and seconded by Ryan to approve *RESOLUTION #19-07-15-01 RECOGNIZING SUZANNE M. ROUSHAR*. All voted in favor, motion carried. (5-0)

City Administrator Mike Johnson presented to the Council for their approval a Resolution associated with the proposed reimbursement of certain expenditures for the 2019 Street and Utility Improvement Project and the acquisition of Capital Equipment. Recently, with the retirement of John Utley as Bond Counsel within the Kennedy-Graven Law Firm, he had been replaced by Ms. Sophia Lykke. After reviewing all of the City's previous actions associated with the proposed reimbursement of certain expenditures, Ms. Lykke requested a resolution to be adopted to ensure the City's compliance with the Internal Revenue Service regulations for reimbursement of prior expenditures with tax-exempt bonds.

It was moved by Seiler and seconded by Nickolay to approve *RESOLUTION #19-07-15-02 RATIFYING THE PRIOR DECLARATION OF OFFICIAL INTENT OF THE CITY OF NEW PRAGUE TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT BONDS OR OTHER OBLIGATIONS TO BE ISSUED BY THE CITY*. All voted in favor, motion carried. (5-0)

Terri Heuton, Financial Advisor with Baker Tilly presented to the Council an overview on the review and approval of a Resolution awarding the sale of \$3,150,000 General Obligation Bonds, Series 2019A. The \$3,150,000 in bonds would be sold and the proceeds would be used to finance \$2,495,000 for Street/Utility Improvement Projects (15 years) and \$655,000 - Capital Equipment (6 years). Other background information shared included details on Standard & Poors Bond Rating and Official Statement (OS), Bid Results of Bond Sale and Resolution Awarding the Sale.

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Ms. Heuton provided an overview of the five bids received on the City's General Obligation Bonds, Series 2019A that were received. The low bid on the bonds was from Northland Securities, Inc. D.A. Davidson & Co., and United Banker's Bank at 2.1131%. She also reported on the bond rating from S & P Global Ratings dated July 10, 2019 The City retained its "AA" Long-term rating with an outlook that was stable and a very positive report. The Resolution Awarding the Sale also had all of its blanks filled in with the final numbers from the bond sale.

After discussion, it was moved by Seiler, seconded by Nickolay to approve *RESOLUTION #19-07-15-03 AWARDING THE SALE OF \$3,150,000 GENERAL OBLIGATION BONDS, SERIES 2019A, FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT.* All voted in favor, motion carried. (5-0)

Public Works Director Glen Sticha reviewed the bid received for the 2019 Trail Seal Coating Project:

<u>Company:</u>	<u>Total Cost:</u>
Bargen Incorporated, Mountain Lake, MN	\$13,912.50

The 2019 Parks Department budget allocated \$15,000.00 towards trail seal coating. Bargen Inc. quoted a product called RePLAY which is a soy-based (environmental friendly) asphalt rejuvenator and sealant that does not contain any petroleum. New Prague has used RePLAY for sealcoating since 2012 and it is performing as we were told it would. Gopher State Sealcoat has a product called Road Guard, which is similar to the Slurry Seal used prior to using RePLAY. This sealcoat would give the walking paths a rich, black finish but requires a 20-24 hour cure time compared to RePLAY which is a clear product and requires less than 3 hours to cure. In the past, history has proven that the Slurry Seal has a tendency of flaking off in spots and causes the paths to have a rough and grit finish which the rollerbladers do not like. Since we have been using RePLAY, we have not noticed any flaking or discoloration.

After discussion, it was moved by Wolf, seconded by Ryan to approve the trail seal coating bid with Bargen Inc. at a cost of \$13,912.50 using RePLAY to perform the 2019 Trail Seal Coating Project. All voted in favor, motion carried. (5-0)

Public Works Director Glen Sticha and Principal Engineer Jon Peterson, P.E. with Bolton & Menk, Inc.(BMI)asked the Council for their approval of a resolution approving plans and specifications and ordering advertisement of bids for the Biosolids Storage Mixing Improvements project.

2Director Sticha provided some project background and explained the Director Sticha provided some project background and explained the biosolids tank is an underground tank on the outside of the Waste Water Treatment plant in the NW corner and is used to store the settled solids from the waste water before it is dewatered for the last time and then the solids are dried. The system used to keep these solids from settling to the bottom of the tank and also reduce odors is an air blower shooting air into a PVC grid system with holes in the piping

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which moves the biosolids around. Back in 2016 the Waste Water Staff noticed that the blower system was not operating correctly and eventually figured out that a connection on the piping system had broken. The Waste Water staff made the repairs necessary. In 2017 Staff noticed a similar problem in a different area of the tank, again Staff did that repair. In 2018, another area showed concerns and at that point Staff found that a lot of the existing piping had become brittle and could break easily and set up a meeting with Mr. Peterson.

After a meeting to discuss the findings, Mr. Peterson explained that there are a number of items that have been identified by Staff in terms of equipment issues with the biosolids storage tank mixing and the aeration equipment. The existing biosolids aeration/mixing equipment has begun to show wear after over eight years of nearly continuous duty. Specific items identified: 1. Aeration equipment in the biosolids tank is in need of some repair. Potential solutions identified included the replacement of the existing air header which can be replaced with a header/diffuser combination system. 2. The aeration blower is in need of rebuilding due to continuous duty on the blower system. Potential solution identified is to acquire a new blower and schedule a rebuild of the existing blower to accommodate future maintenance needs. 3. In order to improve overall mixing in the biosolids storage tank, installation of a mechanical mixer in the tank would augment mixing provided by the aeration system. This item received further evaluation during preliminary design. Based on the previously prepared evaluation, the Staff has budgeted \$710,000.00 for this project in the 2019 Budget for Engineering, Bidding and Construction.

After further discussion, it was moved by Nickolay, seconded by Seiler to approve *RESOLUTION #19-07-15-04 PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS*. All voted in favor, motion carried.  
(5-0)

Planning/Community Development Director Ken Ondich presented to the Council a request to hold the second reading and adopt a Rezoning Ordinance for the property recently annexed into the City Limits that contains the Belzer Car Dealerships. One comment received from Mike Belzer, applicant, regarding their access to the highway and a comment MnDOT had made during the platting process.

City Staff initiated the process of rezoning following the approval of the annexation of the properties. Per the City's Zoning Ordinance, all properties that are annexed are automatically zoned RL-90 Single Family Residential until permanent zoning is adopted. The Planning Commission unanimously recommended (4-0) that the City Council rezone the property described in the staff report which makes up the Belzer dealership properties from RL-90 Single Family Residential to B-2 Community Commercial which will match the City's Comprehensive Plan.

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Director Ondich explained that any time property is rezoned, it must be approved by ordinance. The City Council held the first reading and introduction of the Ordinance on July 1, 2019.

After discussion, it was moved by Seiler, seconded by Bass to approve *ORDINANCE #306 REZONING CERTAIN PROPERTIES FROM AN INTERIM RL-90 SINGLE FAMILY RESIDENTIAL ZONING DISTRICT TO THE B-2 COMMUNITY COMMERCIAL ZONING DISTRICT* located in the Plats of Belzer Addition and Mahowald Addition. All voted in favor, motion carried. (5-0)

Planning/Community Development Director Ken Ondich reviewed with the Council a proposed Subdivision Agreement by and between the City of New Prague and JJM Properties II, LLC for the Belzer Addition, approved by the City Attorney and signed by the Developer. The City has been working on various reviews and approvals for the annexation and development of the Belzer car dealership properties including platting, rezoning, conditional use permit, variance and annexation.

One item, which was a requirement of the platting review of the Ford dealership property, was to enter into a development agreement with Belzer to address topics including the future extension of 3<sup>rd</sup> Street SE, payment of various development fees and the extension of public utilities to the site. City Staff has worked with the City Attorney and the Developer's Attorney to draft an agreement that will satisfy the condition of the final plat approval requiring a development agreement and will conclude the review process for the Belzer Addition development at this time. There is not any new topic in the agreement that hasn't previously been discussed. While the City has entered into many development agreements in the past, the agreement which is proposed is a new format suggested by the City Attorney to better address financial securities and required improvements vs. the previous format of developer agreements that had been used. Exhibit "D" needs to be added to the Agreement.

After further discussion, it was moved by Nickolay, seconded by Bass to approve the Subdivision Agreement by and between the City of New Prague and JJM Properties II, LLC for Belzer Addition. All voted in favor, motion carried. (5-0)

City Administrator Johnson presented details on a Premises Extension Request by the owner of 'Czech'ers Sports Bar (Rich Novak) for an outdoor graduation party on August 10, 2019. City Attorney Scott Riggs provided legal support on this. The only way for 'Czech'ers to be able to host this type of event is for (1) the City Council to approve a formal amendment to 'Czech'ers on-sale liquor license to expand the licensed premises to its parking lot; and (2) the City Council to further grant a conditional use permit (CUP) to allow for outdoor seating. Both steps each require a formal application, a subsequent determination by Staff that all conditions required by both are met, and formal approval by the Council.

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Minn. Stat. 340A.410, subd. 7 provides that "(a) licensing authority may issue a retail alcoholic beverage license only for a space that is compact and contiguous. A retail alcoholic beverage license is only effective for the licensed premises specified in the approved license application." Additionally, Minn. R. 7515.0430 provides that "(a) retail licenses for (on-sale) alcoholic beverages which the municipality may issue must contain a specific description of the premises to which the license applies. The description must include a complete description of the compact and contiguous area in which the licensee will conduct business, including a description of physically connected attachments to the main structure such as patios, decks, or pavilions." To date, 'Czech'ers has never formally requested that the Licensed Premises be increased to include the parking lot/outdoor area, which is clearly required by the provisions above. Therefore, before a liquor license amendment can be considered by the City Council, the Licensee needs to submit a formal application seeking to amend the current on-sale liquor license by expanding the Licensed Premises. Mr. Riggs believes that an adjacent outdoor area like this, if properly enclosed, can meet the "compact and contiguous standard". However, that determination cannot be made until a proper application has been submitted.

Additionally, even if the Licensee applies for the appropriate expansion of the Licensed Premises, section 733 of the city's zoning regulations further requires a conditional use permit for outdoor seating for restaurants and drinking establishments.

Finally, none of the other types of temporary on-sale licenses that are authorized under state law would apply to this specific event/situation. Generally speaking, temporary on-sale licenses are only available to certain types of organizations, including clubs, religious or non-profit organizations that have existed for three years, political committees, state universities, or brewers/micro distilleries. 'Czech'ers is operated as an LLC (none of the aforementioned entities).

Mr. Riggs indicated that the City Council may authorize a holder of a retail on-sale intoxicating liquor license issued by the City to dispense intoxicating liquor off premises at a "community festival" held within the City. This option had been used by 'Czech'ers in the past because the event was open to the public, rather than a private graduation party or something similar. Mr. Novak, owner of 'Czech'ers was present and provided an overview of his request, indicating that he did not submit all of the required documents pending knowing what the Council's inclination would be on the permit request. The Council had significant discussion and debate on the matter. After extensive discussion, Mr. Novak elected to withdraw his request for the premises extension for the graduation party event. Mr. Novak is also looking ahead to another possible event on October 5, 2019 with German Days, Inc. for an Oktoberfest event.

There was additional discussion by City Attorney Riggs that the Council should provide direction on how to proceed with these types of requests in the future - either don't have, develop conditions for applicants to address to obtain a premises extension or approve a formal policy to address concerns noted by the City Attorney. No final action was taken by the Council at this time.

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City Administrator Johnson explained to the Council that there are five members of the City Charter Commission whose four year terms are coming to an end on December 31, 2019. Since the ultimate appointing authority to the Charter Commission is the District Court Judge, it is imperative that any Council recommendations on appointees be provided sufficiently in advance of the expiration date. The Council has several options that could be considered for the expiring 12/31/19 terms:

1. Ask current members if they are interested in continuing to serve on the Commission and recommend to the District Court Judge.
2. Have Councilmembers provide names to the Council and have the Council vote on recommendations to the District Court Judge.
3. The Council could advertise for the pending vacancies, interview potential candidates, and have the Council vote on recommendations to the District Court Judge.

Although there are still about five months until the actual terms expire, City Staff thought it was prudent to begin the discussion to ascertain how the Council would like to proceed on attempting to arrive at recommended names to fill the five vacancies. The Council will need to discuss which process they would like to pursue to develop names of potential individuals to fill the four year terms beginning January 1, 2020 and running until December 31, 2023. These recommendations would then go to the District Court Judge for Appointment.

After discussion and review of the options, the Council directed the City Administrator to first ask the current members if they are interested in continuing to serve on the Commission and then proceed to Option #2 if needed.

It was moved by Seiler, seconded by Nickolay to approve the following consent agenda items including the addition to the Meeting Minutes:

- A. July 1, 2019 Regular Meeting Minutes
  - B. Claims for Payment
  - C. New Prague Area Education Foundation 2019 Brain Power Walk/Run for September 14, 2019
  - D. Payment of Severance Benefit to Suzanne M. Roushar
  - E. Approve New Prague Gymnastics Club LG220 MN Lawful Gambling Application for Exempt Permit for May 13, 2020 event at the New Prague Gymnastics Club, 200 12th Street NE.
- All voted in favor, motion carried. (5-0)

## Miscellaneous Items:

Glen Sticha provided updates on: 1. Population signs and the updates needed to reflect the increase in population. MnDOT has been contacted and the City is waiting to hear a response as to what the cost would be to update the numbers on the signs. May take some time when dealing with two Counties and MnDOT. MnDOT makes the updates to the signs, not the City.  
2. 2019 road construction occurring at CR37 (Holiday Store to Lexington), residential streets and piperwork on the intersection of 12<sup>th</sup> and Columbus (roundabout).

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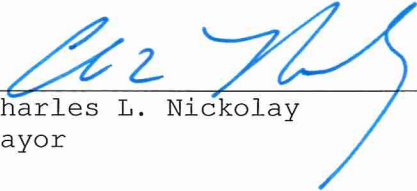
Mike Johnson - 1. Reminder of the Town Hall Forum on July 20, 2019 at the City Hall, 9 a.m. with Representative Vogel and Senator Draheim providing an overview of the 2019 Legislative Session.

Shawn Ryan - 1. Licensing question - Does the caterer at Broz Hotel have to pay a license fee to the City? City Administrator Johnson stated there is no fee because they pay for their liquor license through their caterer's license that allows them to sell liquor from location to location. Attorney Riggs said this is statutorily driven, not city driven. A City ordinance would need to be changed to allow the City to charge a fee for those with a Caterers Permit which is not very common. 2. Several residents have mentioned that their water pressure seems to have dropped lately and curious if there is more load on the system. Glen Sticha will talk to Bruce Reimers about this and have him look into this.

Following discussion, it was moved by Nickolay and seconded by Seiler to adjourn the meeting at approximately 8:32 p.m. All voted in favor of the motion. Motion passed. (5-0)

ATTEST:

  
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Michael J. Johnson  
City Administrator

  
\_\_\_\_\_  
Charles L. Nickolay  
Mayor

