

COUNCIL PROCEEDINGS

August 21, 2007

The City Council of Thief River Falls, Minnesota, met in regular session at 5:00 p.m., on August 21, 2007 in the Council Chambers of City Hall. The following Councilmembers were present: Bendickson, Cullen, Holten, Kajewski, Lee, Schmalz (arrived at 5:25 p.m.), and Mayor Nordhagen. Councilmember Erickson was absent. Mayor Nordhagen chaired the meeting.

RESOLUTION NO. 8-212-07: APPROVAL OF COUNCIL PROCEEDINGS

The City Council reviewed two sets of Council Proceedings. Following discussion, Councilmember Cullen introduced Resolution No. 8-212-07, being seconded by Councilmember Lee, that:

RESOLVED, by the City Council, to approve the August 7, 2007 Council Proceedings and the August 14, 2007 Committee of the Whole Proceedings, as presented.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-213-07: APPROVAL OF PAYMENT OF BILLS

Mayor Nordhagen and Councilmember Lee indicated they reviewed the bills prior to the meeting. Following discussion, Councilmember Lee introduced Resolution No. 8-213-07, being seconded by Councilmember Kajewski, that:

RESOLVED, by the City Council, to authorize payment of the second half of August bills in the amount of \$780,524.75 and the August 1 - 17, 2007 prepayments in the amount of \$1,148,054.08. A printout of the bills approved for payment is attached hereto and made a part hereof.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-214-07: APPROVAL OF ACCEPTANCE OF 2007 AUDIT REPORT AND CITY ADMINISTRATOR'S OFFICE RESPONSIBILITIES

Discussion was held in response to recommendations presented by the City's Auditor at the Committee of the Whole meeting held on August 14, 2007. At that meeting the Auditor stated that the City Administrator's Office should be the final approval of all bills and City compliance with State and Federal rules and regulations. Following discussion, Councilmember Bendickson introduced Resolution No. 8-214-07, being seconded by Councilmember Kajewski, that:

RESOLVED, that the City Council hereby accepts the 2006 audited financial statement as prepared by Brady Martz.

BE IT FURTHER RESOLVED, by the City Council, in accordance with the City Auditor's opinion, the City Council completely supports the Brady Martz audit report and direct the Administrator's offices to:

- 1) Require a paper trail for all invoicing and insure that payments are in accordance with Council directives;
- 2) Follow up on leases for rental of City sites where applicable; and,
- 3) Insure compliance with City Council decisions and State laws.

On vote being taken, the resolution was passed by a five-yes, one-no (Cullen) vote.

RESOLUTION NO. 8-215-07: APPROVAL TO REVIEW AND EVALUATE THE CITY'S ENTERPRISE FUNDS

Discussion was held in response to recommendations presented by the City's Auditor at the Committee of the Whole meeting held on August 14, 2007. Following discussion, Councilmember Bendickson introduced Resolution No. 8-215-07, being seconded by Councilmember Kajewski, that:

BE IT RESOLVED, by the City Council, that in accordance with the City Auditor's recommendation, the City Council shall evaluate the City's Enterprise Funds and compare to area cities to determine why many of our Enterprise Funds are below the state averages listed in the audit report. Those departments affected by the audit's findings shall report back to the Council by the first meeting in November outlining the reasons and possible solutions for the differences.

On vote being taken, the resolution was unanimously passed.

MATTER OF PENNINGTON COUNTY/LEC RADIO SYSTEM BILL

Councilmember Kajewski moved, being seconded by Councilmember Bendickson to table this matter.

RESOLUTION NO. 8-216-07: APPROVAL OF KICK'N UP KOUNTRY DANCE LICENSE AND PARADE PERMIT

The City Council reviewed two applications submitted by Kick'n Up Kountry. Following discussion, Councilmember Lee introduced Resolution No. 8-216-07, being seconded by Councilmember Holten, that:

RESOLVED, by the City Council, to issue a dance license to Kick'n Up Kountry effective August 31, September 1, and September 2, 2007 at the Curling Club Building.

BE IT FURTHER RESOLVED, by the City Council, to approve a parade permit for Kick'n Up Kountry for a parade to be held on September 1, 2007 from 10:00 a.m. until 11:00 a.m., pending approval by the State of Minnesota – Department of Transportation.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-217-07: APPROVAL OF ESTABLISHMENT OF COMMITTEE AND APPROVAL OF APPOINTMENT OF COUNCILMEMBERS KAJEWSKI, HOLTEN, ERICKSON AND SCHMALZ TO NEGOTIATE WITH RED LAKE ELECTRIC COOPERATIVE FOR SERVICE TERRITORY COMPENSATION

Arlo Rude, Director of Utilities, presented a recommendation with regard to Service Territory Compensation Agreements with Red Lake Electric Coop. Following discussion, Councilmember Cullen introduced Resolution No. 8-217-07, being seconded by Councilmember Lee, that:

WHEREAS, state law requires compensation to rural electric coops that are in the service territory of land annexed to a municipality that has a municipal electric utility; and,

WHEREAS, the City of Thief River Falls has received a proposed compensation agreement from Red Lake Electric Cooperative for territories recently annexed, or proposed to be annexed, into the City of Thief River Falls. The requested compensation is 240% more than the prior agreement with Red Lake Electric Cooperative.

THEREFORE, BE IT RESOLVED, by the City Council, to accept the Director of Utilities recommendation to establish a committee to negotiate a service territory compensation agreement with Red Lake Electric Cooperative. The City Council hereby appoints Councilmembers Kajewski, Holten, Erickson, and Schmalz to this committee. They shall negotiate with Red Lake Electric Cooperative and make a recommendation to the City Council for consideration.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-218-07: APPROVAL OF POLICY FOR INSTALLATION OF SECURITY LIGHTING WIRING ON NON-MUNICIPAL PROPERTY BY THE CITY

Arlo Rude, Director of Utilities, presented a recommendation with regard to requests to the City to provide installation of wiring on non-municipal property. Following discussion,

Councilmember Cullen introduced Resolution No. 8-218-07, being seconded by Councilmember Lee, that:

WHEREAS, the Electric Department receives requests to provide lighting for parking lots and security lighting on non-municipal property; and,

WHEREAS, if the City were to provide this service, the City would have liability for the installation of the wiring that becomes owned by the customer and powered off unmetered street light circuits.

THEREFORE, BE IT RESOLVED, by the City Council, to accept the Director of Utilities recommendation and approve a policy that the City of Thief River Falls only provide rented security lighting on poles used for street lighting that will support an additional luminaire and if the circuit has adequate capacity. All parking lot lighting and security lighting that requires installation on non-municipal property or for non-municipal customers of luminaires and/or wiring shall be the responsibility of the customer.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-219-07: APPROVAL OF PROGRESSION RAISE FOR BRIAN BENITT, PUBLIC WORKS MAINTENANCE (STREET/SANITATION) EMPLOYEE

Ron Lindberg, Public Works Director, presented a proposed progression raise. Following discussion, Councilmember Kajewski introduced Resolution No. 8-219-07, being seconded by Councilmember Cullen, that:

RESOLVED, by the City Council, to accept the recommendation presented by the Public Works Director to grant Brian Benitt, Public Works Maintenance (Street/Sanitation) employee, a progression raise. Mr. Benitt shall progress to Step 5 (top) of the Public Works Maintenance (Street/Sanitation) salary schedule, retroactive to August 15, 2007.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-220-07: ACCEPTANCE OF DAKOTA MUD JACK QUOTE FOR MUD JACKING CONCRETE PAD AT REA MAIN ENTRANCE

A recommendation was presented by Madelyn Vigen, Parks and Recreation Director. Following discussion, Councilmember Lee introduced Resolution No. 8-220-07, being seconded by Councilmember Cullen, that:

WHEREAS, the concrete slab in front of the Ralph Engelstad Arena has settled approximately two inches since its construction and has created a liability for the City due to water and/or ice build up; and,

WHEREAS, the following quotes were received to raise the concrete slab at the front entrance of the Ralph Engelstad Arena to allow for water runoff to prevent tripping and ice hazards:

| | |
|----------------------|------------|
| Dakota Mud Jack | \$2,193.00 |
| Weleske Improvements | \$3,250.00 |

THEREFORE, BE IT RESOLVED, by the City Council, to accept the low quote submitted by Dakota Mud Jack in the amount of \$2,193.00 to mud jack a 60' x 17' x 6" concrete slab in front of the main entrance of the Ralph Engelstad Arena.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-221-07: ACCEPTANCE OF MIDWEST REFRIGERATION QUOTE FOR CONDENSERS AT THE HUCK OLSON MEMORIAL CIVIC CENTER

A recommendation was presented by Madelyn Vigen, Parks and Recreation Director. Following discussion, Councilmember Cullen introduced Resolution No. 8-221-07, being seconded by Councilmember Kajewski, that:

WHEREAS, the two evaporative condensers at the Huck Olson Memorial Civic Center are 38 years old and are in need of repair. Due to the age and condition of the condensers, it has been determined that they are not energy efficient and it is not feasible to repair the condensers; and,

WHEREAS, the following quotes have been received for the purchase of two evaporative condensers at the Huck Olson Memorial Civic Center:

| | | |
|-----------------------------|-------------|----------------|
| Midwest Refrigeration, Inc. | \$38,250.00 | (tax included) |
| Cimco Refrigeration | \$43,984.50 | (tax included) |

THEREFORE, BE IT RESOLVED, by the City Council, to accept the low quote submitted by Midwest Refrigeration, Inc. in the amount of \$38,250.00 to purchase two evaporative condensers.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-222-07: APPROVAL OF LEASE WITH NORTHWEST MEDICAL CENTER FOR FRAPPIER ACCELERATION SPORTS TRAINING PROGRAM AT THE RALPH ENGELSTAD ARENA

A recommendation was presented by Madelyn Vigen, Parks and Recreation Director. Following discussion, Councilmember Lee introduced Resolution No. 8-222-07, being seconded by Councilmember Cullen, that:

RESOLVED, by the City Council, to accept the Parks and Recreation Director's recommendation, to authorize and direct the Mayor and City Administrator to execute a lease with Northwest Medical Center for the Ralph Engelstad Arena Fitness Center – Frappier Acceleration Sports Training Program. Lease shall be effective April 1, 2007 through March 31, 2008.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-223-07: APPROVAL OF TRANSFER AGREEMENT WITH PENNINGTON COUNTY FOR AUDITORIUM, OLD ARENA, AND OAKLAND PARK

The City Council reviewed a proposed transfer agreement with Pennington County. Following discussion, Councilmember Lee introduced Resolution No. 8-223-07, being seconded by Councilmember Cullen, that:

WHEREAS, the City of Thief River Falls is the owner of property known as the City Auditorium and the Old Arena; and,

WHEREAS, Pennington County is the owner of Oakland Park; and,

WHEREAS, the City and County desire that the City transfer the City Auditorium property and Old Arena property to the County; and the City and County desire that the County transfer the Oakland Park property to the City.

RESOLVED, by the City Council, to authorize and direct the Mayor and City Administrator to execute a Transfer Agreement that:

The City of Thief River Falls shall transfer the following legally described property to Pennington County, effective upon the date of closing:

Lot Seven (7) less the South Fifteen (15) feet, Block Fifty-six (56) in the Townsite of Thief River Falls, also known as the Original Townsite of Thief River Falls; and,

Lots Eight (8) through Twenty-Four (24) inclusive, Block Fifty-six (56) in the Townsite of Thief River Falls, also known as the Original Townsite of Thief River Falls.

Pennington County shall transfer the following legally described property to the City of Thief River Falls, effective upon the date of closing:

That part of Government Lot Five (5) in Section Four (4), Township One Hundred Fifty-three (153) North of Range Forty-three (43) West of the Fifth Principal Meridian, in the City of Thief River Falls, Pennington County, Minnesota, described as follows:

Commencing at the Southeast corner of Robson First Addition to the City of Thief River Falls, as platted and recorded at the Pennington County Recorder's office; thence North 88 degrees 31 minutes 58 seconds East (assumed bearing), along the Northerly line of Baken's First Addition to the City of Thief River Falls, as platted and recorded at said Recorder's office, for a distance of 256.76 feet to a found iron monument; thence North 88 degrees 22 minutes 28 seconds East, along the Northerly line of said

Baken's First Addition, for a distance of 343.50 feet to the true point of beginning; thence North 00 degrees 08 minutes 48 seconds East, parallel with the Easterly line of said Robson First Addition, for a distance of 687 feet, more or less, to a point of intersection with the Westerly bank of the Red Lake River; thence Easterly, Southeasterly, Southerly, and Southwesterly, along the Westerly bank of the said Red Lake River, for a distance of 1,337 feet, more or less, to a point of intersection with the Northerly line of said Baken's First Addition; thence South 88 degrees 22 minutes 28 seconds West, along the Northerly line of said Baken's First Addition, for a distance of 461 feet, more or less, to a found iron monument; thence continue South 88 degrees 22 minutes 28 seconds West, along the Northerly line of said Baken's First Addition, for a distance of 128.18 feet to the true point of beginning.

On vote being taken, the resolution was unanimously passed.

It should be noted that Councilmember Schmalz arrived at this time.

DISCUSSION OF 2008 LEVY AND BUDGET

The City Council reviewed a memorandum prepared by Jodie Torkelson, City Administrator, regarding the 2008 Levy. This was for information only and no action was taken.

RESOLUTION NO. 8-224-07: RESOLUTION ADOPTING A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 1 AND ESTABLISHING TAX INCREMENT FINANCING DISTRICT NO. 1-8 THEREIN AND ADOPTING A TAX INCREMENT FINANCING PLAN

The Planning Commission presented a recommendation with regard to a proposed tax increment financing project by Harold Jesh. Following discussion, Councilmember Lee introduced Resolution No. 8-224-07, being seconded by Councilmember Kajewski, that:

BE IT RESOLVED by the City Council (the "Council") of the City of Thief River Falls, Minnesota (the "City"), as follows:

Section 1. Recitals.

1.01. The City Council of the City of Thief River Falls has heretofore established Development District No. 1 and adopted a Development Program therefor. It has been proposed by the City that the City adopt a Modification to the Development Program for Development District No. 1 (the "Development Program Modification") and establish Tax Increment Financing District No. 1-8 (the "District") therein and adopt a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification and the TIF Plan are referred to collectively herein as the "Program Modification and TIF Plan"); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.124 to 469.134 and Sections 469.174 to 469.1799, all inclusive, as amended,

(the "Act") all as reflected in the Program Modification and TIF Plan, and presented for the Council's consideration.

1.02. The City has investigated the facts relating to the Program Modification and TIF Plan and has caused the Program Modification and TIF Plan to be prepared.

1.03. The City has performed all actions required by law to be performed prior to the establishment of the District and the adoption and approval of the proposed Program Modification and TIF Plan, including, but not limited to, notification of Pennington County and Independent School District No. 564 having taxing jurisdiction over the property to be included in the District, a review of and written comment on the Program Modification and TIF Plan by the City Planning Commission, and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the "Reports") relating to the Program Modification and TIF Plan and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the Council and/or made a part of the City files and proceedings on the Program Modification and TIF Plan. These reports include the TIF application and information for the but-for statement, as provided by the developer. The Reports include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution. The Council hereby confirms, ratifies and adopts the Reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.05. The City is not modifying the boundaries of Development District No. 1, but is however, modifying the Development Program therefore.

Section 2. Findings for the Adoption and Approval of the Program Modification and TIF Plan.

2.01. The Council hereby finds that the Program Modification and TIF Plan, are intended and, in the judgment of this Council, the effect of such actions will be, to provide an impetus for development in the public interest and accomplish certain objectives as specified in the Program Modification and TIF Plan, which are hereby incorporated herein.

Section 3. Findings for the Establishment of Tax Increment Financing District No. 1-8.

3.01. The Council hereby finds that Tax Increment Financing District No. 1-8 is in the public interest and is a "housing district" under Minnesota Statutes, Section 469.174, Subd. 11.

3.02. The Council further finds that the proposed development would not occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the

projected tax increments for the maximum duration of the District permitted by the Tax Increment Financing Plan, that the Program Modification and TIF Plan conforms to the general plan for the development or redevelopment of the City as a whole; and that the Program Modification and TIF Plan will afford maximum opportunity consistent with the sound needs of the City as a whole, for the development or redevelopment of the District by private enterprise.

3.03. The Council further finds, declares and determines that the City made the above findings stated in this Section and has set forth the reasons and supporting facts for each determination in writing, attached hereto as Exhibit A.

Section 4. Public Purpose.

4.01. The adoption of the Program Modification and TIF Plan conforms in all respects to the requirements of the Act and will help fulfill a need to develop an area of the City which is already built up, to provide housing opportunities, to improve the tax base and to improve the general economy of the State and thereby serves a public purpose. For the reasons described in Exhibit A, the City believes these benefits directly derive from the tax increment assistance provided under the Plan. The developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by the developer are incidental and do not outweigh the primary public benefits.

Section 5. Approval and Adoption of the Program Modification and TIF Plan.

5.01. The Program Modification and TIF Plan, as presented to the Council on this date, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established, and adopted and shall be placed on file in the office of the City Administrator.

5.02. The staff of the City, the City's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program Modification and TIF Plan and to negotiate, draft, prepare and present to this Council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

5.03 The Auditor of Pennington County is requested to certify the original net tax capacity of the District, as described in the Program Modification and TIF Plan, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the City of Thief River Falls is authorized and directed to forthwith transmit this request to the County Auditor in such form and content as the Auditor may specify, together with a list of all properties within the District, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

5.04. The City Administrator is further authorized and directed to file a copy of the Program Modification and TIF Plan with the Commissioner of the Minnesota Department

of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-225-07: APPROVAL OF WAL-MART THIEF RIVER FALLS ADDITION

The Planning Commission presented a recommendation. Following discussion, Councilmember Lee introduced Resolution No. 8-225-07, being seconded by Councilmember Holten, that:

WHEREAS, Wal-Mart Real Estate business has submitted a request to replat Lot 1 of Block One of Barnick's Third Addition,

WHEREAS, the Planning Commission conducted a public hearing on August 20, 2007, to review the Preliminary Plat and Final Plat of Wal-Mart Thief River Falls Addition as submitted by Wal-Mart Real Estate Business Trust; and,

WHEREAS, approval of the Wal-Mart Thief River Falls Addition may be adopted in a single action because: 1) The Barnick's Third Addition was prepared less than two years ago; 2) This a reconfiguration of the former Murphy Oil property; 3) There are no infrastructure changes; and, 4) This request was initially a recommendation from the City.

THEREFORE, BE IT RESOLVED, by the City Council, to accept the Planning Commission recommendation and approve Wal-Mart Thief River Falls Addition, property to be legally described as Lots 1 and 2 of Block One in Wal-Mart Thief River Falls Addition.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 8-226-07: APPROVAL OF PURCHASE OF NORTHROP PARK PLAYGROUND EQUIPMENT

The City Council reviewed the proposed purchase of playground equipment at Northrop Park. Following discussion, Councilmember Bendickson introduced Resolution No. 8-226-07, being seconded by Councilmember Schmalz, that:

RESOLVED, by the City Council, to accept the State Bid from Landscape Structures, Inc. in the amount of \$53,992.77 (bid includes playground equipment, installation supervisor, tufftimber, resilient surfacing, and tax) for playground equipment to be installed at Northrop Park:

On vote being taken, the resolution was unanimously passed.

ADJOURNMENT

There being no further discussion, Councilmember Kajewski moved, being seconded by Councilmember Schmalz, to adjourn the meeting at 5:35 p.m. On vote being taken, the Chair declared the motion unanimously carried and the meeting adjourned.

Steve Nordhagen, Mayor

Attest: _____
Jodie R. Torkelson, City Administrator