

## COUNCIL PROCEEDINGS

September 2, 2008

The City Council of Thief River Falls, Minnesota, met in regular session at 5:00 p.m. on September 2, 2008 in the Council Chambers of City Hall. The following Councilmembers were present: Bendickson, Cullen, Erickson, Holten, Kajewski, Lee, Schmalz, and Mayor Nordhagen. No Councilmembers were absent. Mayor Nordhagen chaired the meeting.

### **PRESENTATIONS/PROCLAMATIONS/PUBLIC INFORMATION/ ANNOUNCEMENTS**

Mayor Nordhagen presented a proclamation proclaiming September 7-13, 2008 as National Assisted Living Week in Thief River Falls, urging all citizens to visit friends and loved ones who reside at these facilities and also to learn more about assisted living services and how they benefit our communities. Councilmember Bendickson moved, being seconded by Councilmember Cullen, to authorize the Mayor to sign such proclamation. On vote being taken, the Chairman declared the motion unanimously carried.

### **APPROVAL OF AGENDA**

Councilmember Schmalz motioned, being seconded by Councilmember Kajewski, to approve the agenda with the addition of one item. On vote being taken, the motion was unanimously approved and the agenda adopted.

### **RESOLUTION NO. 9-218-08: APPROVAL OF COUNCIL PROCEEDINGS**

Presented as part of the Consent Agenda, Councilmember Kajewski introduced Resolution No. 9-218-08, being seconded by Councilmember Lee, that:

RESOLVED, by the City Council, to approve the August 19, 2008 Council Proceedings as presented.

On vote being taken, the resolution was unanimously passed.

### **RESOLUTION NO. 9-219-08: APPROVAL OF PAYMENT OF BILLS**

Presented as part of the Consent Agenda, Councilmember Kajewski introduced Resolution No. 9-219-08, being seconded by Councilmember Lee, that:

RESOLVED, by the City Council, to authorize payment of the bills and disbursements in the total amount of \$733,433.72. A printout of the approved payments and disbursements is attached hereto and made a part hereof.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-220-08: APPROVAL OF SERVICE TERRITORY AGREEMENT WITH RED LAKE ELECTRIC COOPERATIVE, INC.**

Public Utilities Director Rude, presented a proposed agreement with Red Lake Electric Cooperative. Following discussion, Councilmember Lee introduced Resolution No. 9-220-08, being seconded by Councilmember Erickson, that:

WHEREAS, the State of Minnesota requires the City to compensate Red Lake Electric Cooperative for customers served by the City in annexed areas. This compensation is by agreement reached between the City and Cooperative; and,

THEREFORE, BE IT RESOLVED, by the City Council, to authorize and direct the Mayor and City Administrator to execute the "Agreement" between the City of Thief River Falls and Red Lake Electric Cooperative, Inc. whereby the City shall compensate Red Lake Electric Cooperative \$0.013 per kWh of electricity sold to existing customers and future customers that are existing or future customers in an annexed area. The terms for length and time of payment are as defined in the "Agreement". The agreement shall be effective immediately and shall continue through July 31, 2009.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-221-08: APPROVAL OF ANNEXATION AND COMPENSATION AGREEMENT TO SERVICE TERRITORY AGREEMENT WITH RED LAKE COOPERATIVE, INC.**

Public Utilities Director Rude, presented a proposed agreement with Red Lake Electric Cooperative. Following discussion, Councilmember Cullen introduced Resolution No. 9-220-08, being seconded by Councilmember Lee, that:

RESOLVED, that an "Annexation and Compensation Agreement" be approved with terms as defined in the "Agreement" approved by Resolution No. 9-220-08 as it relates to compensation of new and existing utility customers located on real property located within the County of Pennington and State of Minnesota, further described as:

The West Half of the East Half of the Northwest Quarter (W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ ) of Section Ten (10), Township One Hundred-Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, LESS road right-of-way containing 40 acres, more or less.

and

A tract of land in the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ) of Section Ten (10), Township One Hundred-Fifty-three (153) North of Range Forty-three (43) West of the Fifth Principal Meridian, described as follows:

Beginning at the northwest corner of the said Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ); thence North 89 degrees 41 minutes 40 seconds East, assumed bearing, along the north line of the said Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ), a distance of 1304.39 feet to the northeast corner of the said Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ), thence South 0 degrees 31 minutes 27 seconds West, along the east line of the said Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ), a distance of 1106.21 feet to the point of intersection of the said east line and an easterly extension of the south line of that parcel described in Document No. 164216, of record in the Office of the County Recorder, in and for the County of Pennington and State of Minnesota; thence North 89 degrees 17 minutes 10 seconds West, along said easterly extension, a distance of 855.85 feet to the southeast corner of said parcel; thence North 0 degrees 42 minutes 50 seconds East, along the east line of said parcel 750.00 feet to the northeast corner of that parcel described in Book 93 of Deeds, Page 347, of record in said Office of the County Recorder; thence North 89 degrees 17 minutes 10 seconds West, along the north line of said parcel described in Book 93 of Deeds, Page 347, a distance of 452 feet to the west line of the said Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ), thence North 0 degrees 42 minutes 50 seconds East, along the said west line, a distance of 333.00 feet to the point of beginning, said tract containing 25.04 acres, more or less (all hereafter "Real Property").

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-222-08: APPROVAL FOR NORTHWEST MINNESOTA HOUSING COOPERATIVE TO USE A PORTION OF EASEMENT FOR UTILITY PURPOSES IN MEADOWLARK ESTATES SECOND ADDITION**

Jeff Fagerstrom of Northwest Minnesota Housing Cooperative presented a request to the City Council. Following discussion, Councilmember Lee introduced Resolution No. 9-222-08, being seconded by Councilmember Kajewski, that:

RESOLVED, by the City Council, to authorize Northwest Minnesota Housing Cooperative to use a portion of an existing drainage and utility easement located along Lot 1 in Block 1 of Meadowlark Estates Second Addition (1501 Sunrise Court).

Northwest Minnesota Housing Cooperative proposes to excavate the soil for the purpose of installing piping for a ground source geo-thermal heating system. The

soil will be returned to the easement area and be available for any utilities placed at grade level to eight feet deep.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-223-08: APPROVAL OF SOUTH EASTWOOD ADDITION  
PRELIMINARY PLAT**

A Planning Commission recommendation was presented. Following discussion, Councilmember Bendickson introduced Resolution No. 9-223-08, being seconded by Councilmember Lee, that:

WHEREAS, the Planning Commission conducted a public hearing on August 18, 2008 to consider the proposed "South Eastwood Addition" Preliminary Plat as requested by the City of Thief River Falls and prepared by Brian S. Hoffart, Registered Land Surveyor at Widseth Smith & Nolting; and,

WHEREAS, following the public hearing, the Planning Commission recommends approval of the Preliminary Plat.

THEREFORE, BE IT RESOLVED, by the City Council, to accept the Planning Commission recommendation to approve the Preliminary Plat of South Eastwood Addition, property legally described as that part of Government Lot 1 and Government Lot 2, Section 4, Township 153 North, Range 43 West of the fifth Principal Meridian described as follows:

Commencing at the northeast corner of said Government Lot 1, thence South 00 degrees 40 minutes 32 seconds East along the east line of said Government Lot 1, assumed bearing, a distance of 1208.42 feet to the point of beginning; thence continuing South 00 degrees 40 minutes 32 seconds East, along said east line, a distance of 190.00 feet to the intersection with the easterly extension of the north line of Thyren's First Addition to the City of Thief River Falls, Minnesota, according to the Official Plat thereof, in the Office of the County Recorder, in and for the County of Pennington, and the State of Minnesota; thence South 89 degrees 10 minutes 35 seconds West, along the said easterly extension and said north line, a distance of 1340.41 feet to the Northwest corner of said Thyren's First Addition to the City of Thief River Falls, Minnesota, thence North 00 degrees 40 minutes 32 seconds West, parallel to said east line, a distance of 190.00 feet; thence North 89 degrees 10 minutes 35 seconds East, parallel to said north line, a distance of 1340.41 feet to the point of beginning, containing 5.76 acres, more or less, and being subject to any and all easements, reservations, restrictions and conveyances of record.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-224-08: DENIAL OF CONDITIONAL USE PERMIT FOR VINCE MIRAMONTES, D.B.A. PHILLIPS IRON AND METAL, INC. – 1107 MAIN AVENUE NORTH**

A Planning Committee recommendation was presented. Following discussion, Councilmember Lee introduced Resolution No. 9-224-08, being seconded by Councilmember Bendickson, that:

WHEREAS, pursuant to proper notice, the Planning Commission conducted a public hearing on August 18, 2008 on a request submitted by Vince Miramontes, d.b.a. Phillips Iron and Metal, Inc. for a Conditional Use Permit to construct a 36' x 48' temporary storage facility on the alley located adjacent to 1107 Main Avenue North; and,

WHEREAS, the Planning Commission recommends that the City Council deny the request, noting that the denial is based on the understanding that salvage yards (junk yards) are not allowed as a condition use in General Residential District (R-2), the existing City Code does not allow for the expansion of a Non-Conforming Use, and the request does not meet any of the criteria necessary for a Conditional Use Permit.

THEREFORE, BE IT RESOLVED, based upon the findings and recommendations presented by the Planning Commission, that the City Council hereby denies the Conditional Use Permit request submitted by Vince Miramontes, d.b.a. Phillips Iron and Metal, 1107 Main Avenue North.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-225-08: APPROVAL OF VINCE MIRAMONTES, D.B.A. PHILIPS AND IRON, INC. TEMPORARY BUILDING CONSTRUCTION**

Following denial of the Conditional Use Permit for Vince Miramontes, discussion was held on allowing a temporary building to be constructed on the same footprint as the existing building. Councilmember Cullen introduced Resolution No. 9-225-08, being seconded by Councilmember Kajewski, that:

WHEREAS, the City Council, by Resolution 9-224-08, denied a Conditional Use Permit request submitted by Vince Miramontes; based upon the facts that salvage yards (junk yards) are not allowed as a conditional use in a General Residential District (R-2), that salvage yards are a non-confirming use and the City Code does not allow for the enlargement of a non-conforming use or structures located therein, and the request did not meet the criteria for granting conditional use permits;

WHEREAS, because of safety concerns expressed by Building Official Erickson, namely that the building currently on site is in a state of disrepair and is a safety

concern, and that the building should be razed or repaired as soon as possible to safeguard the safety and health of the public; and,

THEREFORE, BE IT RESOLVED, by the City Council, to authorize Vince Miramontes, d.b.a. Philips Iron and Metal, Inc., to replace the unsafe building structure with a 36' x 42' temporary structure on the same footprint as the current building located adjacent to 1107 Main Avenue North.

BE IT FURTHER RESOLVED, that the City Council, stresses that this action is temporary in nature and that Vince Miramontes, d.b.a Philips Iron and Metal, Inc., pursue moving its salvage yard operation located at 1107 Main Ave North, including the temporary building, to the North LaBree Avenue location. Mr. Miramontes shall be responsible for any and all costs associated with the relocation of the business, including the removal of the temporary building and foundation.

BE IT FURTHER RESOLVED, that Vince Miramontes must contact the Minnesota Pollution Control Agency for a permit to raze the building, noting that the City will not issue a building permit unless the MPCA permit is received by the City of Thief River Falls.

On vote being taken, the resolution was unanimously passed.

**RESOLUTION NO. 9-226-08: APPROVAL OF NORTHWEST MINNESOTA FOUNDATION GRANT APPLICATION SUBMITTAL FOR FUNDING OF TRF AREA FUTURE FOCUS PROJECT**

Community Development Moore presented the City Council with a grant application for the TRF Area Future Focus project. Following discussion, Councilmember Cullen introduced Resolution No. 9-226-08, being seconded by Councilmember Kajewski, that:

WHEREAS, the Northwest Minnesota Foundation has accepted the pre-application for a TRF Area Future Focus grant that was approved by the City by Resolution No. 7-184-08.

THEREFORE, BE IT RESOLVED, by the City Council, to approve the submittal of the grant application to the Northwest Minnesota Foundation Grant Application for funding assistance in the amount of \$25,000 toward the estimated \$50,000 of the "TRF Area Future Focus" project cost.

On vote being taken, the resolution was unanimously passed.

**UPCOMING MEETINGS**

- City Council/County Commissioners – September 8, 2008 at 7:00 a.m. at Dee's Kitchen

- Parks and Recreation/Public Safety Committee– September 8, 2008 at 4:30 p.m.
- Public Works Committee – September 10, 2008 at 4:30 p.m.
- Budget & Finance Committee – September 10, 2008 at 6:00 p.m.
- Public Utilities Committee – September 11, 2008 at 4:30 p.m.
- Adjourned City Council – September 12, 2008 at 7:00 a.m. in Council Chambers
- Planning Commission – September 15, 2008 at 7:00 p.m.
- City Council Meeting – September 16, 2008 at 5:00 p.m.

### **ADJOURNMENT**

There being no further discussion, Councilmember Lee moved, being seconded by Councilmember Cullen, to adjourn the meeting at 5:53 p.m. On vote being taken, the Chair declared the motion unanimously carried and the meeting adjourned until September 8, 2008 at 7:00 a.m.

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Steve Nordhagen, Mayor

Attest: \_\_\_\_\_  
Jodie R. Torkelson, City Administrator