

COUNCIL PROCEEDINGS

July 5, 2011

The City Council of Thief River Falls, Minnesota, met in regular session at 5:00 p.m. on July 5, 2011 in the Council Chambers of City Hall. The following Councilmembers were present: Erickson, Haj, Kajewski, Schmalz, Swanson and Mayor Nordhagen. Councilmember Cullen and Holten were absent. Mayor Nordhagen chaired the meeting.

APPROVAL OF AGENDA

Councilmember Schmalz motioned, being seconded by Councilmember Kajewski, to approve the agenda as presented. On vote being taken, the motion was unanimously approved.

RESOLUTION NO. 7-137-11: APPROVAL OF COUNCIL PROCEEDINGS

Presented as part of the Consent Agenda, Councilmember Kajewski introduced Resolution No. 7-137-11, being seconded by Councilmember Erickson, that:

RESOLVED, by the City Council, to approve the June 21, 2011 Council Proceedings.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 7-138-11: APPROVAL OF PAYMENT OF BILLS

Presented as part of the Consent Agenda, Councilmember Kajewski introduced Resolution No. 7-138-11, being seconded by Councilmember Erickson, that:

RESOLVED, by the City Council, to authorize payment of bills and disbursements in the total amount of \$651,046.49. 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. 7-139-11: APPROVAL OF TRANSFER OF ELITE ENTERPRISES, INC. ON-SALE 3.2% MALT LIQUOR LICENSE AND ON-SALE WINE LICENSE TO DAKOTA JAMES, INC. DBA: PIZZA HUT

Presented as part of the Consent Agenda, Councilmember Kajewski introduced Resolution No. 7-139-11, being seconded by Councilmember Erickson, that:

RESOLVED, by the City Council, to approve the transfer of the On-Sale 3.2% Malt Liquor License and the On-Sale Wine License from Elite Enterprises to Dakota James Inc., d.b.a. Pizza Hut TRF, contingent upon successful passage of the required background checks and completion of required insurance requirements.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 7-140-11: ADOPTION OF ORDINANCE 53, 3RD SERIES, AN ORDINANCE TO AMEND CHAPTER 74 OF CITY CODE: SNOWMOBILE; ALL TERRAIN VEHICLES

Councilmember Schmalz motioned, being seconded by Councilmember Kajewski, to call for the second reading of an ordinance that will amend City Code Chapter 74 relating to all terrain vehicles to be consistent with changes in state statute. The motion was unanimously carried.

Following the reading of the ordinance by City Attorney Ihle, Councilmember Erickson introduced Resolution No. 7-140-11, being seconded by Councilmember Haj, that:

RESOLVED, by the City Council, to adopt an ordinance amending City Code Chapter 74 entitled "Snowmobile; All-Terrain Vehicles" by amending provisions relating to equipment and licenses. Said ordinance will be published in The Times newspaper and will be on file in the Office of the City Administrator.

On vote being taken, the resolution was unanimously passed.

SECOND READING OF AN ORDINANCE TO AMEND CHAPTER 111 OF CITY CODE: ALCOHOLIC BEVERAGES

Councilmember Kajewski motioned, being seconded by Councilmember Schmalz, to call for the second reading of an ordinance that will amend City Code Chapter 111 relating to alcoholic beverages to change the opening and closing hours to be consistent with state statute. The motion was unanimously carried.

Following the reading of the ordinance by City Attorney Ihle, the resolution failed due to lack of a motion.

RESOLUTION NO. 7-141-11: APPROVAL OF JOINT RESOLUTION ESTABLISHING AN ORDERLY ANNEXATION AGREEMENT BETWEEN ROCKSBURY TOWNSHIP AND THE CITY OF THIEF RIVER FALLS

City Attorney Ihle presented information with regard to a proposed annexation into the City limits for the site of the new Sanford Medical Center and land owned by John Tofte. Following discussion, Councilmember Kajewski introduced Resolution No. 7-141-11, being seconded by Councilmember Schmalz, that:

WHEREAS, The City of Thief River Falls, Minnesota, (hereafter "City"), did receive a Petition for Annexation of Real Property into the City due to the need of utilities and other services provided by the City, and

WHEREAS, All of the owners of the Real Property to be annexed pursuant to this Agreement did sign the Petition for Annexation, and

WHEREAS, The respective governing bodies of Rocksbury Township (hereafter "Town") and City had expressed their desire to encourage future development of Real Property near the City so as to promote the development of municipal services and urban growth as much as is practical, while respecting the existing rural residential lifestyles of other areas within the Town, and

WHEREAS, The Petition for Annexation concerned that Real Property located within the Township of Rocksbury, County of Pennington, and State of Minnesota described as follows:

Lots Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), and Twenty (20), Block Three (3), Oak Haven Subdivision, situated in the North Half (N $\frac{1}{2}$) of Section Nine (9), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota,

AND

That part of the West Half (W $\frac{1}{2}$) of Section Nine (9), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota, lying westerly of the following described line:

Beginning at the northwest corner of Government Lot 3 of said Section 9, said point also lying on the westerly line of Oak Haven Subdivision, as platted and filed at the Pennington County Recorder's office; thence South 00 degrees 30 minutes 39 second East (assumed bearing), along the westerly line of said Government Lot 3 and along the westerly line of said Oak Haven Subdivision for a distance of 33.00 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence North 88 degrees 40 minutes 00 seconds East, parallel with the northerly line of the Northwest Quarter of said Section 9 and along the westerly line of said Oak Haven Subdivision, for a distance of 570.14 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 01 degrees 19 minutes 55 seconds East, along the westerly line of said Oak Haven Subdivision, for a distance of 194.86 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 88 degrees 40 minutes 00 seconds West, along the westerly line of said Oak Haven Subdivision, for a distance of 53.91 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 02 degrees 15 minutes 45 minutes West, along the westerly line of said Oak Haven Subdivision, for a distance of 446.91 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 38 degrees 16 minutes 49 seconds East, along the westerly

line of said Oak Haven Subdivision, for a distance of 202.54 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 71 degrees 52 minutes 02 seconds East, along the westerly line of said Oak Haven Subdivision, for a distance of 313.00 feet; thence South 04 degrees 51 minutes 20 seconds West for a distance of 789.76 feet; thence South 08 degrees 32 minutes 40 seconds East for a distance of 611.40 feet; thence South 79 degrees 49 minutes 41 seconds West for a distance of 304.74 feet; thence South 33 degrees 53 minutes 00 seconds West for a distance of 294.57 feet; thence South 86 degrees 57 minutes 28 seconds West for a distance of 243.04 feet to a point of intersection with the westerly line of Magner's First Subdivision as extended northerly; thence South 04 degrees 44 minutes 22 seconds West, along the westerly line of said Magner's First Subdivision as extended northerly, for a distance of 73.67 feet to the northwest corner of said Magner's First Subdivisions; thence continue South 04 degrees 44 minutes 22 seconds West, along the centerline of said road and along the westerly line of said Magner's First Subdivision, for a distance of 1,295.98 feet to a point of intersection with the northerly line of Government Lot 9 of said Section 9 and the southwest corner of said Magner's First Subdivision; thence South 04 degrees 46 minutes 05 seconds West for a distance of 1,324.81 feet to the southwest corner of said Government Lot 9, said line there terminating. Excepting therefrom existing highway and railroad rights-of-way and a tract of land described in Book 252 of Records, Page 14, filed at said recorder's office.

AND

That part of the East Half ($E\frac{1}{2}$) of Section Eight (8), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota, lying easterly of Minnesota State Highway No. 32 right-of-way, less a tract of land described in Book 129 of Records, Page 1, filed at the Pennington County Recorder's office.

AND

That part of the Northwest Quarter of the Northwest Quarter ($NW\frac{1}{4}NW\frac{1}{4}$), Section Nine (9), Township One Hundred Fifty-three (153) North, of Range Forty-three (43) West of the Fifth Principal Meridian, described as follows:

Commencing at an iron monument at the Northwest Corner of said Section 9; thence South 89 degrees 48 minutes 03 seconds East, assumed bearing, along the North line of the said $NW\frac{1}{4}NW\frac{1}{4}$ a distance of 224.98 feet to the Easterly right-of-way line of Trunk Highway No. 32, being the point of beginning of the tract to be described; thence continuing South 89 degrees 48 minutes 03 seconds East along said North line 774.32 feet; thence South 00 degrees 11 minutes 57 seconds West, perpendicular to the above said

North line 270.00 feet to an iron pipe monument; thence North 89 degrees 48 minutes 03 seconds West, parallel with the said North line 838.99 feet to an iron pipe monument on the said Easterly right of way line of Trunk Highway No. 32; thence North 13 degrees 40 minutes 09 seconds East along said Easterly right-of-way line 277.64 feet to the point of beginning.

WHEREAS, The City and Town desire to accommodate the Petition for Annexation to encourage growth in a cooperative, planned, and orderly fashion, and

WHEREAS, This Joint Resolution creating an Orderly Annexation Agreement (hereafter "Agreement") is beneficial to both parties to promote orderly planning, the orderly transition of government within the Real Property proposed to be annexed, promote continuity of city boundaries, and establish the condition under which such annexation shall take place, and

WHEREAS, The Town and City jointly request the immediate annexation of the Real Property described herein into the City,

NOW, THEREFORE, BE IT RESOLVED, In consideration of the mutual terms and conditions contained herein, Town and City hereby enter into this Agreement to provide for the orderly annexation of the Real Property herein described into the City upon the following terms and conditions:

1. Real Property Designated For Annexation. The unincorporated Real Property designated for orderly annexation is located in the Township of Rocksbury, County of Pennington and State of Minnesota and is described as follows:

Lots Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), and Twenty (20), Block Three (3), Oak Haven Subdivision, situated in the North Half (N $\frac{1}{2}$) of Section Nine (9), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota,

AND

That part of the West Half (W $\frac{1}{2}$) of Section Nine (9), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota, lying westerly of the following described line:

Beginning at the northwest corner of Government Lot 3 of said Section 9, said point also lying on the westerly line of Oak Haven Subdivision, as platted and filed at the Pennington County Recorder's office; thence South 00 degrees 30 minutes 39 second East (assumed bearing), along the westerly line of said Government Lot 3 and along the westerly line of said Oak Haven Subdivision for a distance of 33.00 feet to an angle point on the

westerly line of said Oak Haven Subdivision; thence North 88 degrees 40 minutes 00 seconds East, parallel with the northerly line of the Northwest Quarter of said Section 9 and along the westerly line of said Oak Haven Subdivision, for a distance of 570.14 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 01 degrees 19 minutes 55 seconds East, along the westerly line of said Oak Haven Subdivision, for a distance of 194.86 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 88 degrees 40 minutes 00 seconds West, along the westerly line of said Oak Haven Subdivision, for a distance of 53.91 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 02 degrees 15 minutes 45 minutes West, along the westerly line of said Oak Haven Subdivision, for a distance of 446.91 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 38 degrees 16 minutes 49 seconds East, along the westerly line of said Oak Haven Subdivision, for a distance of 202.54 feet to an angle point on the westerly line of said Oak Haven Subdivision; thence South 71 degrees 52 minutes 02 seconds East, along the westerly line of said Oak Haven Subdivision, for a distance of 313.00 feet; thence South 04 degrees 51 minutes 20 seconds West for a distance of 789.76 feet; thence South 08 degrees 32 minutes 40 seconds East for a distance of 611.40 feet; thence South 79 degrees 49 minutes 41 seconds West for a distance of 304.74 feet; thence South 33 degrees 53 minutes 00 seconds West for a distance of 294.57 feet; thence South 86 degrees 57 minutes 28 seconds West for a distance of 243.04 feet to a point of intersection with the westerly line of Magner's First Subdivision as extended northerly; thence South 04 degrees 44 minutes 22 seconds West, along the westerly line of said Magner's First Subdivision as extended northerly, for a distance of 73.67 feet to the northwest corner of said Magner's First Subdivisions; thence continue South 04 degrees 44 minutes 22 seconds West, along the centerline of said road and along the westerly line of said Magner's First Subdivision, for a distance of 1,295.98 feet to a point of intersection with the northerly line of Government Lot 9 of said Section 9 and the southwest corner of said Magner's First Subdivision; thence South 04 degrees 46 minutes 05 seconds West for a distance of 1,324.81 feet to the southwest corner of said Government Lot 9, said line there terminating. Excepting therefrom existing highway and railroad rights-of-way and a tract of land described in Book 252 of Records, Page 14, filed at said recorder's office.

AND

That part of the East Half (E½) of Section Eight (8), Township One Hundred Fifty-three (153) North, Range Forty-three (43) West of the Fifth Principal Meridian, Pennington County, Minnesota, lying easterly of Minnesota State Highway No. 32 right-of-way, less a tract of land described in Book 129 of Records, Page 1, filed at the Pennington County Recorder's office.

AND

That part of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$), Section Nine (9), Township One Hundred Fifty-three (153) North, of Range Forty-three (43) West of the Fifth Principal Meridian, described as follows:

Commencing at an iron monument at the Northwest Corner of said Section 9; thence South 89 degrees 48 minutes 03 seconds East, assumed bearing, along the North line of the said NW $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 224.98 feet to the Easterly right-of-way line of Trunk Highway No. 32, being the point of beginning of the tract to be described; thence continuing South 89 degrees 48 minutes 03 seconds East along said North line 774.32 feet; thence South 00 degrees 11 minutes 57 seconds West, perpendicular to the above said North line 270.00 feet to an iron pipe monument; thence North 89 degrees 48 minutes 03 seconds West, parallel with the said North line 838.99 feet to an iron pipe monument on the said Easterly right of way line of Trunk Highway No. 32; thence North 13 degrees 40 minutes 09 seconds East along said Easterly right-of-way line 277.64 feet to the point of beginning.

The Real Property is shown on the map attached hereto and made a part hereof as Exhibit "A".

2. Acreage and population. The Real Property consists of approximately 252.5 acres, the population of the Real Property is currently 0.

3. Jurisdiction. Upon approval by the Town Board and City Council, this Agreement shall confer jurisdiction upon the Chief Administrative Law Judge, as defined in Minnesota Statutes, Section 414.011 (Subd. 12) (hereafter "Chief Judge"), to accomplish said annexation in accordance with the terms of this Agreement.

4. Review and Comment by Chief Judge. The Town and City mutually agree and state that this Agreement sets forth all the conditions for annexation and that no consideration by the Chief Judge is necessary for annexation to occur within the Real Property in accordance with this Agreement. Additionally, no alteration of the boundaries by the Chief Judge is appropriate. The Chief Judge may review and comment, but shall, within thirty days, order the annexation in accordance with the terms of this Agreement.

5. Effective Date. This Agreement is effective on the date it is last adopted by the Town and City. The annexation provided for by this Agreement shall be effective upon the issuance of the Order by the Chief Judge. The provisions of this Agreement shall be binding unless otherwise modified by a joint resolution of both the Town and City. This Agreement is only meant to apply to the Real Property and not to any other area within the Town.

6. Reasons for Annexation. The reasons for the annexation of the Real Property include the Town's and City's collective determination that: The Real Property is now, or is about to become, urban or suburban in character; that the Real Property is in need of utilities such as sanitary sewer, storm sewer, and water; the type of development proposed for the Real Property is more consistent with development within the City; and at this time the annexation would be in the best interest of the Petitioners, the City, and the Town.

7. Timing of Tax Levy. Pursuant to Minnesota Statutes, Section 414.0325, Subd. 4b, because the annexation provided for in this Agreement will be effective prior to August 1, 2011, the City may levy on the annexed area beginning with the same levy year.

8. Property Tax Reimbursement. Pursuant to Minnesota Statutes, Section 414.036, the reimbursement from the City to the Town shall be as follows:

First Year	90%
Second Year	70%
Third Year	50%
Fourth Year	30%
Fifth Year	10%

9. Road Maintenance. The annexation will include one-half of the existing township roads lying on the South and East of the Real Property to be annexed. The Town and City shall share equally in the maintenance of those roads. Should a disagreement arise regarding maintenance of those roads, Minnesota Statutes 164.14 shall govern those disagreements.

10. Authorization. The appropriate officers of the Town and City are hereby authorized to carry out the terms of this Agreement.

11. Entire Agreement. The terms, covenants, conditions, and provisions of this Agreement, including Exhibit "A", which is attached hereto and incorporated herein by reference, shall constitute the entire Agreement between the Town and City, unless amended by joint resolution of Town and City.

12. Governing Law. This Agreement is made pursuant to, and shall be construed in accordance with, the laws of the State of Minnesota.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 7-142-11: APPROVAL TO CALL FOR BIDS FOR LIME SLUDGE REMOVAL

A request from the Director of Utilities was presented. Following discussion, Councilmember Schmalz introduced Resolution No. 7-142-11, being seconded by Councilmember Haj, that:

RESOLVED, by the City Council, to authorize the Director of Utilities to call for bids for the removal of lime sludge by hydraulic dredge from the lime ponds, with bids to be opened on July 27, 2011 at 2:00 p.m. at City Hall.

On vote being taken, the resolution was unanimously passed.

RESOLUTION NO. 7-143-11: ACCEPTANCE OF RETIREMENT OF DOUG MARTELL, HEAVY EQUIPMENT OPERATOR FOR THE STREETS/SANITATION DEPARTMENT

The City Council reviewed the resignation letter of Doug Martell. Following discussion, Councilmember Kajewski introduced Resolution No. 7-143-11, being seconded by Councilmember Erickson, that:

RESOLVED, by the City Council, to accept the retirement of Doug Martell, Heavy Equipment Operator for the Streets/Sanitation Department, effective July 29, 2011.

The City Council wishes to express its gratitude to Mr. Martell for his 30+ years of employment with the City of Thief River Falls.

On vote being taken, the resolution was unanimously passed.

UPCOMING MEETINGS/EVENTS

- Utilities Committee Meeting – July 11, 2011 at 4:30 p.m.
- Park and Recreation Committee Meeting – July 12, 2011 at 4:30 p.m.
- Public Works Committee Meeting – July 13, 2011 at 4:30 p.m.
- Administrative Services Committee Meeting – July 14, 2011 at 4:30 p.m.
- Budget and Finance Committee Meeting – July 18, 2011 at 4:30 p.m.
- City Council Meeting – July 19, 2011 at 5:00 p.m.

INFORMATIONAL ITEMS

- There were no informational items.

ADJOURNMENT

There being no further discussion, Councilmember Schmalz moved, being seconded by Councilmember Erickson, to adjourn the meeting at 5:20 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