

1. Call to Order

Mayor Jacobs called the meeting to order at 7:30 p.m.

Councilmembers present: Mayor Jeff Jacobs, John Basill, C. Paul Carver, Phil Finkelstein, Paul Omodt, Loran Paprocki and Susan Sanger.

Councilmembers absent: None

Staff present: City Manager (Mr. Harmening), City Attorney (Mr. Scott), Management Assistant (Ms. Honold), Community Development Director (Mr. Locke), Planning & Zoning Supervisor (Ms. McMonigal), Senior Planner (Mr. Walther) and Recording Secretary (Ms. Schmidt).

2. Presentations – None**3. Approval of Minutes****3a. City Council Study Session Minutes August 25, 2008**

It was noted on page two, item #2, the fourth paragraph, should state: "... to the ordinance in order to get around the smoking ban. "... you can fall down a slippery slope."

It was noted on page four, item #3, the first paragraph, last sentence should state: "... also questioned how many changes can be made on what was applied for on the TIF application."

3b. City Council Study Session Minutes September 8, 2008

It was noted on page 11, item #6, the third paragraph, add sentence to state: "Mr. Locke stated it sounded reasonable and staff would look into it."

It was noted on page six, item #4, the 3rd paragraph, third sentence: "...if they were going to extend a road to the west end..."

It was noted on page two, item #2, the third paragraph, first sentence should state: "and he understands the difference ..."

3c. Special City Council Minutes September 22, 2008

It was noted on page one, Councilmember absent: Mayor Jeff Jacobs and Loran Paprocki.

3d. City Council Study Session Minutes September 22, 2008

It was noted on page six, item #4, the second paragraph, last sentence should state: "... do not have children and that we should market to residents who don't have children."

It was noted on page three, item #2, the second paragraph, last sentence should state: "...routed north and south trains..."

It was noted on page three, item #2, the third paragraph, first sentence should state: "... was sent to the Policy Advisory Committee (PAC)."

It was noted on page three, item #2, the third paragraph, second sentence should state: "...Kenilworth corridors, possibly by moving..."

It was noted on page four, item #2, the sixth paragraph, last sentence should state: "... which was granted."

It was noted on page five, item #3, the seventh paragraph, last sentence should state: "... with these types of functions."

It was noted on page six, item #5, the first paragraph, should state: "City Manager Harmening presented the staff report..."

4. Approval of Agenda and Items on Consent Calendar

NOTE: The Consent Calendar lists those items of business which are considered to be routine and/or which need no discussion. Consent items are acted upon by one motion. If discussion is desired by either a Councilmember or a member of the audience, that item may be moved to an appropriate section of the regular agenda for discussion.

- 4a. Adopt **Resolution No. 08-122**, appointing student election judges and additional regular election judges needed to staff the polls at the General Election to be held November 4, 2008.
- 4b. Amend Professional Services Agreement with Campbell Knutson to increase city attorney services rates by 3.5% starting January 1, 2009.
- 4c. Approve Second Reading to Adopt **Ordinance No. 2360-08** amending Sections 4-81 through 4-89 concerning dogs, approve summary, and authorize publication.
- 4d. Adopt **Resolution No. 08-123**, accepting the Project Report, Establishing Improvement Project No. 2006-2000, approving Plans and Specifications, and Authorizing Advertisement for Bids for Improvement Project No. 2006-2000.
- 4e. Adopt **Resolution No. 08-124** establishing a special assessment for the repair of the sewer service line at 5925 West 34th Street.
- 4f. Approve Change Order No. 1 to Contract 72-08 - Street Project – Park Place Boulevard – Project No. 2007-1101.

- 4g. Adopt **Resolution No. 08-125** approving Traffic Control Signal Agreement No. 93080-R and authorizing the Mayor and City Manager to execute the agreement – Street Project – Park Place Boulevard – Project No. 2007-1101.
- 4h. Approve Encroachment Agreement with 4349 Browndale Avenue for use of City right-of-way for two (2) retaining walls.
- 4i. Approve Amendment No. 1 to Contract 06-08 - Water Project - WTP #8 Filter Rehabilitation - Project 2006-2000.
- 4j. Adopt **Resolution No. 08-126** to enter into a lease agreement between the City and TTM Operating Corporation, Inc. (TTM) for space on the water tower at 2541 Nevada Avenue for a communications antenna.
- 4k. Approve the Third Amendment to the Contract for Private Redevelopment By and Between St. Louis Park Economic Development Authority, the City of St. Louis Park, and Highway 7 Business Center LLC.
- 4l. Approve Change Order No. 1 to Contract 113-07 – Furnish Decorative Street Lighting for Excelsior Boulevard Streetscape Project – Project No. 2004-0100.
- 4m. Adopt **Resolution No. 08-127** authorizing final payment in the amount of \$33,509.48 for furnishing of decorative street lighting poles and fixtures, banner poles, and luminaries, Project No. 2004-0400 with Carlo Lachmansingh Sales, Inc., City Contract No. 113-07.
- 4n. Approve the Assignment, Assumption and Consent to Assignment relating to the Purchase and Redevelopment Contract between the EDA and Oak Hill 3501 LLC.
- 4o. Approve for filing Planning Commission Minutes September 3, 2008.
- 4p. Approve for filing Parks and Recreation Advisory Commission Minutes May 21, 2008.
- 4q. Approve for filing Parks and Recreation Advisory Commission Minutes September 3, 2008.
- 4r. Approve for filing Vendor Claims.

It was moved by Councilmember Sanger, seconded by Councilmember Finkelstein, to approve the Agenda and items listed on the Consent Calendar.

The motion passed 7-0.

5. Boards and Commissions - None

6. Public Hearings

6a. Public Hearing on 1st Reading 2009 Fee Schedule Appendix A

Ms. Honold presented the staff report.

No speakers present. Mayor Jacobs closed the public hearing.

Councilmember Sanger asked if the Certificate of Property Maintenance fees applied to Co-op units. Ms. Honold stated that Mr. Hoffman would be addressing that when he brings

the additional rental information forward. Councilmember Sanger stated she wanted to make sure they were addressed. Ms. Honold stated she would make note of the inquiry.

It was moved by Councilmember Omodt, seconded by Councilmember Finkelstein, to approve 1st Reading of Ordinance adopting fees for 2009 and Set Second Reading for October 20, 2008.

The motion passed 7-0.

7. Requests, Petitions, and Communications from the Public – None

8. Resolutions, Ordinances, Motions and Discussion Items

8a. First Reading of Zoning Ordinance Amendments relating to Towers and Antennas

Ms. McMonigal presented the staff report explaining key issues of height, setback, interference, aesthetics and environmental considerations.

Mr. Locke noted that the area of radio interference from broadcast towers on adjoining properties was not included, other than how it relates to public safety equipment. He suggested adding language to require the tower owner to work with neighboring property owners to resolve any radio interference problems that might happen on adjoining properties. Mr. Locke stated staff spent a lot of time discussing the height issue, since it seemed to be the biggest concern. He further noted staff concluded that the most straight forward to handle the setback requirement was to simply require a setback from all property lines equal to the height of the tower. Mr. Locke also noted that there is interest in pursuing a tower on the Dahl property and they would like to speak on the issue. He further stated that they might not be able to build the tower they want without seeking a variance. Mr. Locke stated that the proposed language, which states a tower cannot be located in a wetland or floodplain, may also make it difficult for a tower to be located on the Dahl property. The City Council may want to change that language simply rely on the existing general rules regarding building in wetlands and floodplain.

Thomas Christiansen, 2170 Ridge Drive, stated that the proposed tower was fundamentally different than other towers presented and would be required to be lit with strobe lights because of the height; and, also stated concern that towers will affect adjacent property values.

Claire Christianson, 2744 Georgia Avenue, stated she was adamantly opposed and questioned why the City would be willing to accommodate an Edina business when the City would gain nothing but a large tower.

Jared Andrews, 7000 Hemlock Ln, Suite 300, Maple Grove, stated he was a consultant with the applicant and would be willing to answer any questions Council may have.

Tom Louck, 7800 Hemlock Ln, Suite 300, Maple Grove, stated he was a consultant working with Chris Dahl to assist in processing the application. He further stated that the proposed ordinance stating towers cannot be located within the in wetland conservation district would complicate and possibly prohibit their request. He further stated that they would be able to comply with the Wetland Conservation District rules, but to comply with the proposed ordinance they would need to secure a variance to do so.

Councilmember Sanger stated the proposed ordinance was not specific to the application of Mr. Dahl.

Philip Hogland, 2716 Vernon Avenue South, stated that he is an amateur radio user and the proposed ordinance would cause great difficulty for him to operate. Mr. Hogland stated he had more details and concerns and would be presenting them in a letter to Council for their review.

Councilmember Paprocki stated concern with the somewhat contradictory statement under Sec. 36-142 Descriptions item (1).

Ms. McMonigal stated the difference is Ham radios are for private enjoyment and the intention is that they would be treated differently. She further stated that staff would look at the language to clarify it better.

Councilmember Sanger read a memo sent from resident Lisa Robinson, stating her concern and requesting Council consider the negative impact any change will have on the residents of St. Louis Park. She further stated concern with the potential radio interference and aesthetic impact on the residential neighborhood and the nuisance of the tower being lit.

Councilmember Sanger stated she received several emails throughout the years involving radio interference of phone and other equipment from communications towers currently on Mr. Dahl's property. She stated the language only addressed interference of public safety equipment, but not private property owners and suggested additional language be added to page 24, Sect. J, Sub 4, stating additional submittal requirements should include a letter of intent committing the tower owner to promptly resolve all complaints that the tower may be creating from radio interference with another property owner's usage of radio, phones, or other communication devices.

Councilmember Sanger also requested a statement be submitted from operators stating that they were ready to promptly address concerns.

Councilmember Sanger also proposed an amendment be added on page 21, Sec E, stating towers exceeding 70 feet in height shall be setback a distance equal to twice the height of the tower from all property lines abutting parcels in the R-1, R-2, R-3 and R-4 districts, and equal to the tower height from all other property lines and buildings not accessory to the tower.

Councilmember Omodt stated the communication tower issue arose because an application came for a tower, and the ordinance that was written wasn't clear. He further asked if the lights on the tower would be angled up or down.

George Werl, 4833 E Lake Harriet Parkway, Consulting Inc., stated that under 200' lights are not required. He further stated that the four towers that are currently there do have lights and there is no plan to do strobe lights at this point. Mr. Werl stated the lights would be similar to what's already around town, such as the KQRS tower, unpainted, strobed during the day, with the strobe angled toward the horizon.

Councilmember Omodt asked about the fall radius.

Mr. Werl stated it has multiple guide points and would hold its position, collapsing like an accordion, with a radius of approximately 25% of the tower height.

Councilmember Omodt asked for the facts on what type of radio interference may occur.

Mr. Werl stated that they are required by the FCC to resolve problems that may arise the first year. He further stated that wouldn't absolve the broadcaster from working with residents after that time had expired. He further stated in the past, they have had some garage door and phone issues.

Councilmember Sanger asked about the visibility of the lights towards the horizon and if they would be seen a farther distance from the sides.

Mr. Werl stated they would have red lights at night and white strobes during the day, perhaps being more visible from a further distance.

Councilmember Paprocki stated concern with the aesthetics and safety, stating there is language in the proposal that would allow rejecting on the basis of the aesthetics of the lights unless they are mandated by the FCC. He further asked if they could reject the application because of those aesthetics.

Mr. Locke stated they would have to follow the FCC requirements.

Mr. Scott stated if Councilmember Paprocki has concern with the aesthetics and lit poles, they should consider keeping the height limit at 200'.

Councilmember Paprocki asked if there was any other zoning where buildings weren't allowed on wetlands or floodplains.

Ms. McMonigal stated there is a floodplain overlay ordinance that is very restrictive on what can be done in the floodplain, stating the City is under their rules.

Councilmember Finkelstein asked if Council agrees to the ordinance changes, would they find other radio stations migrating to the City.

Mr. Locke suggested if the goal is to be more restrictive, they would need to make some type of amendment to make the ordinance more restrictive. He further stated he is uncertain of the demand for this type of tower.

Councilmember Finkelstein asked for clarification on making the setback requirements 1½ times for R1, R2 and R3, and adding R4 to make it consistent, asking why it's proposed to eliminate R4.

Mr. Locke stated staff attempted to make it consistent, stating double height setback was more than what was needed.

Ms. McMonigal stated staff's thought was that the individual operators wouldn't be able to meet the setback requirement.

Councilmember Carver stated the language is being changed in an effort to find clarity on the ordinance's interpretation. He further stated the choices are to either to do something or nothing and leave it as is. Councilmember Carver stated they needed to rewrite an ordinance that would work for today and also work with future technology. He also stated a system set up for solving problems with interference should be included in the ordinance.

Councilmember Sanger stated Council had not discussed a 400' height tower but had discussed the need for an ordinance making it adaptable to future technology. She further stressed they need to be consistent with height and the setback requirements and the concern needed to be addressed. Councilmember Sanger reiterated Councilmember Finkelstein's question on migration, noting that she has been informed of another radio station observing the outcome decision and that may want to locate in St. Louis Park.

Councilmember Finkelstein agreed they needed to come up with something to clarify the language and asked if they should vote on the Councilmember Sanger's amendments separately.

Councilmember Carver reminded Council that Mr. Hogland wanted to submit an outlined letter of issues and concerns and suggested Council table or continue the discussion so that letter, as well as the issues brought up can be addressed. Councilmember Carver also asked Mr. Harmening if a tower would count as an improvement and increase property taxes.

Mr. Harmening stated it would have some impact on the property value if it were creating more income.

Councilmember Basill agreed with Councilmember Carver, stating it should be looked at more in its entirety and is open to continuing the discussion. He would like to review mixed use and parks and open space in more detail. Councilmember Basill stated that they could still provide controls through public process, CUP's and variances.

Councilmember Paprocki agreed to continue the discussion, since he has concerns with the collapse radius, wetlands and floodplain, power interference and aesthetics.

Councilmember Finkelstein also agreed to continue, stating concern with the CUP for both office and industrial and requested staff find out what the surrounding communities are doing.

Mayor Jacobs stated he would prefer to go forward and get answers before it comes before them again.

Terry Moore, 3300 Edinborough Way #601, broadcast attorney, explained that moving a radio station was extremely difficult and expensive to do, further stating there would be a low likelihood of them migrating to St. Louis Park.

Councilmember Omodt asked Mr. Locke if staff knew the number of parcels that would allow towers.

Mr. Locke stated staff hasn't had an opportunity to review that yet. He further stated the conditions could be set in the CUP.

Mr. Locke asked Mr. Scott if time allowed them to continue the item.

Mr. Scott stated they legally could continue the discussion.

Councilmember Omodt asked Councilmember Sanger if she knew who the interested radio station was.

Councilmember Sanger stated she could not give that information.

Mr. Moore stated he is unaware of anyone interested in coming to St. Louis Park.

Councilmember Paprocki asked if they could turn the lights on the existing towers for everyone to get an idea of what the look would be.

Mr. Werl stated it would be too costly and advised people to look at the KQ tower, stating it would look like that.

It was moved by Councilmember Carver, seconded by Councilmember Basill, to continue the discussion to a study session on October 20th.

Councilmember Basill suggested staff provide input for the following items: park and open space, mixed use, address Mr. Hogland's concerns in his letter, monopole clarification; a 1:1 setback requirement, further analysis on fall radius; limiting the number of towers; language on how to handle disputes with interference and the lights.

Councilmember Omodt requested information on wetland restrictions and designation of whom is the controlling body regarding wetlands; and the facts on the proliferation of interference.

Councilmember Finkelstein requested information on what the surrounding communities are doing.

Mr. Harmening suggested setting a study session for October 20th.

Councilmember Omodt suggested people with concerns send them in writing.

Councilmember Paprocki stated the upcoming study session is for Council discussion.

Councilmember Basill stated that the public was welcome to attend and listen in at that discussion.

The motion passed 7-0.

**8b. Minor Amendment to West End PUD for Grocery Store, 1570 16th Street West, Case No. 08-32-PUD
Resolution No. 08-128**

Mr. Walther presented the staff report.

David Bade, Duke Realty, presented updated elevations.

Mike Schmidt, Roundy's, briefed on type of store that will be at location.

Councilmember Sanger stated concern with the parking and possible gridlock. She asked what the standards were for determining the amount.

Mr. Walther stated parking counts were already approved by City Council in the Final PUD, and stated there are approximately 200 surface parking stalls, along with shared parking available across the street.

Mr. Schmidt stated that employees will be required to park in the parking structure across the street to leave more surface parking stalls available to customers. He further stated the store size and presentation will attract daily, quick shopping and the average order size will be smaller than larger supermarket stores, but will still provide a wide variety of products.

Councilmember Finkelstein liked the idea of this type of grocery store and stated it will be a great amenity. He further stated he is glad there will not be a sea of parking.

Councilmember Sanger stated she liked the proposed art and graphics for the west wall facing West End Blvd.

It was moved by Councilmember Sanger, seconded by Councilmember Omodt, to adopt the Minor Amendment to the Final PUD for West End, subject to conditions in the resolution.

The motion passed 7-0.

9. Communications

Mayor Jacobs thanked Councilmember Sanger for running the September 22nd Council meeting.

Councilmember Sanger reminded the community to register to vote by October 14th.

Mr. Harmening stated staff has received international recognition for comprehensive approach in the establishment of the graffiti net database.

Councilmember Paprocki stated people could educate themselves through the candidate's websites and/or League of Woman's Voters, as well as neighbors.

10. Adjournment

The meeting adjourned at 9:56 p.m.

Nancy Stroth, City Clerk

Jeff Jacobs, Mayor