

**MINUTES**  
**CITY COUNCIL ADJOURNED MEETING**  
**MONDAY, JULY 21, 2003**  
**5:30 P.M.**  
**COUNCIL CHAMBERS**

MEMBERS PRESENT: Mayor Rietz, Council Member-at-Large Goodnature, Council Members Koch, Pacholl, Christopherson, Nordin and Chamberlain.

MEMBERS ABSENT: Council Member Jorgenson

OTHERS PRESENT: Media. Public. Mary Ann Leiders. Jeff Dahn. Robert Stevenson. Kevin Arnold. Kevin Schammel. Kathy Stutzman. Kim Paterson. Scott Richardson. Carol King. Nathan Swank. Scott Felten.

The following items were added to the agenda: #33 Additional sick leave donation for (city employee) Loren Allas, #34, Discussion and motion on the HRA decision regarding the User's property.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, adopting the agenda. Carried.

Moved by Council Member Nordin, seconded by Council Member Pacholl, adopting the council meeting minutes of July 7, 2003. Carried.

Mary Ann Leiders, 2309 4<sup>th</sup> Drive SW, spoke to Council as representing residents of the South Grove Park neighborhood. The weekend adult basketball games started in summer 2002 and have grown bigger. Ms. Leiders said there are now issues of safety and parking with approximately 70 cars parking along the streets. She said she realizes the need for the basketball playing but asks Council to address the problems now. Park and Rec has put up two additional hoops, and now this park is the only park with an almost-full court (end-to-end hoops). Council Member Goodnature said he has watched the activity also over the last couple of years; this matter should be moved to a work session. Council Member Goodnature also called this a "great problem", which does have some solutions available. Council Member Chamberlain said this matter should be first discussed at the Park and Rec Board, along with the South Grove Park neighbors and the basketball players. Council Member Goodnature said Council needs to act quickly. Ms. Leiders said this issue is scheduled to be on the next Park and Rec Board meeting, August 6.

Jeff Dahn, owner of AB Taxi, spoke to Council regarding the Mower County Transportation volunteer program. Mr. Dahn believes that MCT is not in compliance with state statutes. For example, MCT does not have to pay taxes or pay insurance premiums. Mayor Rietz said

this has been discussed with Bruce Henricks from the County. Council Member Pacholl said this matter should be discussed at a work session. Mayor Rietz requested Jim Hurm discuss this matter with Jeff Dahn.

Moved by Council Member Pacholl, seconded by Council Member Nordin, approving the consent agenda as follows:

Licenses:

- Cab driver: Jackie Thompson for A&B Taxi, 300 2<sup>nd</sup> Avenue NW, #3
- Food: Advance Auto Parts, 309 W. Oakland Avenue
- Temporary Food: Austin Rotary Club @ Corcoran Center for Aug. 12
- Temporary 3.2 Beer: Grand Meadow Jaycees @ fairgrounds, Aug. 5-10
- Food: Salvation Army, 409 1<sup>st</sup> Avenue NE
- Cab driver: Dan Hoban for AB Taxi, 702 2<sup>nd</sup> Avenue NE

Claims:

- Pre-list of bills
  - a. Finance Report and Investments
  - b. June Reterrath, 3527 50<sup>th</sup> Street NW, Rochester. This claim has been referred to the city attorney to protect the city's interest.

Carried.

Council received the bids report for asbestos abatement for floodplain properties. This is the first in a series of bids for asbestos removal.

Contractor	Bid Amount
Safe Air Systems Annandale, MN	\$ 53,630.17
Mavo System Inc. Fridley, MN	\$ 59,480.00
Asbestrol, Inc. Austin, MN	\$ 79,270.00
Vruno & Williams Cont. White Bear Lake, MN	\$ 83,461.00

Moved by Council Member Nordin, seconded by Council Member Nordin, adopting a resolution awarding the bid to Safe Air Systems, Annandale, Minnesota. 6-0. Carried.

Council received the bids report for floodplain site clearance.

Contractor	Bid Amount
Wallace Bustad Crane Service Austin, MN	\$ 95,400.00
David Spinler Austin, MN	\$ 96,700.00
Hansen Hauling & Excavating Austin, MN	\$ 144,077.00

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution awarding the bid to Wallace Bustad Crane Service, Austin. 6-0. Carried.

Public hearings were held for an amendment to the Comprehensive Plan involving future land use of the Burr Oak Manor property located at 400 10<sup>th</sup> Avenue NW from a low density residential to a high residential land use; a resolution approving Findings of Fact for rezoning from R-1 Single Family District to a Planned Development District for property located at 400 10<sup>th</sup> Avenue NW; and for a rezoning from R-1 Single Family Residence District to a Planned Development Residential District for property located at 400 10<sup>th</sup> Avenue NW, requested by Schammel Properties.

Community Development Director Craig Hoium gave a brief synopsis of the Burr Oak Manor property and following three public hearings. Proposed is an 18-unit market rental apartment building. The plan is to be in two phases: the first includes demolition of the old Wagner mansion, with the south wing completed within 12 months of any necessary approvals from the city council. The second phase involves the renovation of the north wing and will be completed within 24 months of any necessary approvals from the city council. Included and necessary for the rezoning is a Findings of Fact. These are included in the hearings. Most of the questions involving this development centered on density. In answer to this, the Conceptual Plan Review was reviewed by the Planning Commission on July 15 and the Planning Commission approved and recommended amending the Comprehensive Plan Land Use Map from low density to high density based on the following Findings of Fact:

- 1) adjacent to major arterial collector roads
- 2) adjacent to areas of employment
- 3) adjacent to areas of commercial activity
- 4) act as a transition from more intensive land use types to less intensive land use type

Mr. Hoium noted that this area to be developed is surrounded by various zoning districts, R-1 to the north and east, and R-2, R-0 and B-1 to the south, and R-2 to the west. Mr. Hoium also noted that in the immediate area, there are five multi-family housing units and seven single-family houses. In answer to the question of parking and traffic, tenants will access 4<sup>th</sup> Street NW. Mr. Hoium referred to a 2000 study of traffic counts on 4<sup>th</sup> Street NW of 14,000 cars per day; however there is a question of whether this count was established when Burr Oak was vacant or occupied. Mr. Hoium has conferred with three professional engineers; all

have said this development would not have an adverse effect on traffic in the surrounding area. The third point from the Planning Commission's Findings of Facts raised concerns of off-street parking. The current standard (for an R-1 District) is 1.25 stalls per apartment unit. The petitioner offered a second proposal of 36 stalls, which is 2 stalls per apartment. If the additional 13 stalls proposed were eliminated, green space would be 43% coverage; however, according to Architect Paul Johnson, there is a 3% error so green space would be at 40%, and 40% is in compliance with lot coverages in R-1 and R-2 Districts. Mr. Hoium also noted that Mr. Scott Richardson, attorney for the neighbors, had questions on procedural questions relating to ; Mr. Hoium is referring those questions to the Assistant City Attorney, Craig Byram, who serves as attorney for the Planning Commission.

Council Member Christopherson questioned whether this Planned Development District was the final plan. Mr. Hoium said it was and that the Planning Commission and City Council have waived a preliminary plan review.

Council Member Chamberlain asked for clarification on requirements of parking. Mr. Hoium said the minimum requirement would be 23 off-street parking stalls; the petitioner would be providing an additional 13 stalls.

City Attorney David Hoversten stated that Council needs a two-thirds vote to approve an amendment to the Comprehensive Plan.

Robert Stevenson, 1403 2<sup>nd</sup> Street NW, said he has not met anyone in his neighborhood who wants apartments there. He said Council Members Koch, Jorgenson and Chamberlain have previously voted on behalf of these residents, and he asked why the others can't understand their position. He said they want single family residences.

Council Member Goodnature said there are a lot of ways to address Mr. Stevenson's question. If the Council were to vote on developments always based on popularity of the vote, there would be no developments. He noted Primrose in southwest Austin as another example of outside developers who were willing to use their money to develop in our city, and that development was heavily opposed. He said it behooves the Council to weigh all sides of all issues.

Council Member Koch questioned Mr. Hoium on the density factor. It was clarified that the Burr Oak Manor property is included in the five multi-family units in the immediate block. Council Member Koch stated he believes approving this development would create more density and safety issues in an already high density area.

Council Member Pacholl said though he understands the concern of the neighbors, the Council must look at the needs of the whole city. Another factor in approving this development is the fact that a building already exists there and it can be converted. Plus, there always is a need for more housing.

Council Member Christopherson also noted the Primrose development, which he voted for. He said he ran for office in support of private development, noting that the City was becoming a big landlord. He noted that this developer was going to use his own money (not

the City's). He said while he didn't expect some people to agree with him, he asked that they respect his vote.

Kevin Arnold, 1300 3<sup>rd</sup> Street NW, stated that the area is currently densely populated. He said he has four children and is concerned with safety because the traffic is already heavy. Mr. Arnold said that he believes that business should at times take a backseat to families. He requested they table the matter so that First Ward Council Member Jorgenson could vote.

Kevin Schammel, proposed developer of the Burr Oak Manor property, spoke to Council saying he has worked on this proposal for six months. He has made changes and met with the neighbors. He believes he has accommodated the neighbors and is in accordance with the city ordinances. He asked the Council to proceed.

Kathy Stutzman, 301 12<sup>th</sup> Place NW, objected to the development because of the density, traffic and noise. She stated that the Planning Commission and the Council Members have voted on no other option. Ms. Stutzman proposes moving five floodplain homes to this area. She stated that this proposal "undermines the work of the Comprehensive Plan". Ms. Stutzman also noted that 4<sup>th</sup> Street NW is already a bottleneck for traffic.

Kim Paterson, 1305 3<sup>rd</sup> Street NW, questioned the ordinance requiring 1.25-stalls per apartment. Community Development Director Hoiu stated that if the district were an R-2 Multi Family Residence District, 23 stalls would be required; the requirement for this development with 18 apartments is 22.5 stalls, or 23. Council Member Goodnature said Mr. Schammel is allowing for 36 stalls. Ms. Paterson said that 36 stalls would take up too much green space. City Attorney David Hoversten noted that a Planned Development District does not necessarily have to meet the 36. Ms. Paterson questioned the space available for 36 stalls and questioned whether the Mayor and/or council members had visited this area. She also said the city could use perhaps assisted living housing, but there isn't a need for apartments. Mayor Rietz referred to Paul Johnson, architect, on the playground and parking lot issues. Mr. Johnson said 36 stalls have been added to the plan as requested by the Planning Commission. He said that probably the area is a little too dense for that much parking, but noted that the space for each stall, plus backing out space is all according to the city ordinance. He said possibly they could gain some more property adjacent to this property, he believes it is city-owned. He does not believe there will be any removal of trees to create the parking stalls. There may be modification of shrubbery. The plan includes the reduction of sidewalks to create more green space. Mr. Johnson noted that Mr. Schammel has been responsive to as many wishes and wants of the Council and Planning Commission as they have expressed, including eliminating apartment units.

Scott Richardson, attorney for neighborhood residents, also requested that the council table the matter. Mr. Richardson refuted Council Member Goodnature's contention that Mr. Schammel has met all criteria. He stated that Mr. Schammel has *not* met all criteria because the area is not zoned properly. He said Mr. Schammel has to change the zoning ordinance, and in order to change the ordinance, he has to change the Comprehensive Plan. Therefore, he has not met all criteria.

Council Member Christopherson questioned the wording of Findings of Fact. City Attorney David Hoversten said the Planned Development District cannot be compared to traditional requirements (in an R-2 District).

Mr. Hoiium said he has received opinions from three professional civil engineers who stated there would not be any adverse traffic issues.

Attorney Scott Richardson briefed Council on his interpretation of the Planning Commission's Findings of Fact, noting several holes in the Findings under points 2,3,5,7 and 9. Included in his argument is his contention that the development would not reduce density but would add to it and that vehicular traffic would increase, not be adversely affected. Under point 5, Mr. Richardson contends that the statement "the existing neighborhood surrounding the subject parcel consists of a wide variety of land uses. . . ." is not a fair statement because it is a residential neighborhood. He said point 7 is probably true, but the parking and driveway will not create open green space; it will be parking. Under point 8, the first statement should have the language added "as amended at the very same meeting." And under point 9, the second sentence should read "The proposed rezoning *isn't* in compliance with the current comprehensive plan."

Mr. Richardson also noted that there was a procedural problem to obtain the Planned Development District ordinance. He said the ordinance states there must be a written report, and there is no such thing. Mr. Hoiium noted that this matter was reviewed with Mr. Byram of the city attorney's office and since the Planning Commission waived the preliminary plan per Subdivision 6, the preliminary plan requirements are not applicable. Mr. Richardson stated he disagreed with Mr. Hoiium's interpretation. Mr. Richardson also noted that recommendation from the police and fire departments were to be included.

Mr. Richardson also questioned why this district is being rezoned to a Planned Development District rather than an R-2 Multi Family Residence District. He asked Council if this area were vacant, would they allow this development in this space. Would there be other options available, he asked. Mr. Richardson also noted a technicality following City Code 11.56, Conditional Uses. He said if a Conditional Use Permit is denied, the petitioner can't come back to you for a year. This is Mr. Schammel's second application so shouldn't this be denied then, he asked.

City Attorney David Hoversten said a petitioner may apply for change of one non-conforming use to another. He said Mr. Schammel is within the rights for rezoning of a Planned Development District.

Mr. Hoversten questioned whether Council would be within the 60-day rule if they allowed more time. Community Development Director Craig Hoiium said time would expire on the application before the next council meeting for the amendment to the Comprehensive Plan. City Attorney David Hoversten said that if action is not taken or if Council tabled the matter, the application is automatically granted.

Council Member Goodnature said there is a time and place for everything. He has heard everything; he is not one to pass something automatically. He was elected to make tough decisions and will vote for this.

Council Member Chamberlain said he has made every effort to try to reduce the number of apartments to a lesser number than 18. He said he lost that attempt, but is not against the project. He noted that the property has been vacant for some time. Anyone has had the opportunity to do something with the property, but no one did. Now someone has come forward. Council Member Chamberlain said he would have liked to have seen it smaller, but he is supportive of the project because it is a private individual using his own funds for the property and will do something nice with it.

Council Member Nordin said this has been worked on for so long. She feels that the developer and the architect have addressed concerns of the neighbors; they have “bent over backwards” and feels the developer will continue to do so in the future. Council Member Nordin said this will be a nice building; the plan is nicely done and well landscaped. It will be a nice improvement. Also, she said she has to consider everyone in the city in this decision.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, approving the amendment to the Comprehensive Plan involving a future land use of the Burr Oak Manor property located at 400 10<sup>th</sup> Avenue NW from a low density to a high density residential land use. 5-1. Carried. Council Member Koch voted nay.

Moved by Council Member Nordin, seconded by Council Member Chamberlain, resolving the City Council into the Board of Adjustments and Appeals. Carried.

Moved by Council Member Pacholl, seconded by Council Member Nordin, adopting a resolution approving Findings of Fact for rezoning from R-1 Single Family District to a Planned Development Residential District for property located at 400 10<sup>th</sup> Avenue NW. 5-1. Council Member Koch voted nay.

City Attorney David Hoversten said the amendment to the Comprehensive Plan should be by resolution.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, adopting a resolution approving an amendment to the Comprehensive Plan involving future land use of the Burr Oak Manor property located at 400 10<sup>th</sup> Avenue NW from a low density residential to a high density residential land use. 5-1. Carried. Council Member Koch voted nay.

A public hearing was held for variances on a rear yard setback, front yard setback, and lot coverage in an R-1 Single Family Residence District and in a Community Business District, requested by Stephen Echert. Community Development Director Craig Hoium said the petitioner has proposed to replace the building currently used by the United Support Group with a 28' x 48' double-wide mobile home. The minimum lot requirement for this district is 6000 s.f. The petitioner would remove hard surface and replace it with landscaping. Four

variances from city code are included in the application. The Planning Commission has recommended approval by a vote of 5-0.

Council Member Nordin noted it would be a great improvement over the existing building; however, she questioned the total square footage of the lot at 2250 s.f. and that one-third of the required lot would not be there.

Mayor Rietz noted that it is an unusual piece of property.

Council Member Goodnature said it is the Council's responsibility to look at each property separately, and sometimes it is perplexing even to Council. He said he thought the idea was inconceivable until he actually saw the area. He said it is probably the only area in town which this would fit. He asked Council to make exception to the rule.

Carol King, 705 7<sup>th</sup> Avenue NE, clarified that the United Support Group building is not owned by the group; Mr. Echert rents to them. Ms. King noted that the area has been a business, not a residence. She says she hopes Council has actually seen this area because the mobile home would be "squished into a very small area." Ms. King believes that this is not conducive to the area. Also, it is most likely covered with asbestos shakes, so Council should think about that. She requested Council consider the precedence they are making if they approve. This should not be approved, she said, to make the (Packer) arena look better.

Council Member Koch asked if there are houses to the east. Mr. Hoium stated there is.

Council Member Chamberlain questioned time limits on approving this. City Attorney David Hoversten said that unlike conditional use permits, there are no time limits for variances. He added that there has been contractual zoning within the State of Minnesota, but not in Austin.

Council Member Chamberlain stated that like any other piece of property, the property owner should have the right to do what he wants on his property.

Community Development Director Craig Hoium said the size of the mobile home is listed on the application; this cannot be changed. He does not plan on any minor subdivisions to delay the problem. There are certain abatement issues that must be addressed, however.

Moved by Council Member Chamberlain, seconded by Council Member Nordin, approving the variance. Carried.

A public hearing was held for an 1152-square-foot variance from City Code limiting accessory structures to no more than 1000 square feet in an R-1 Single Family Residence District. The petitioner resides in Austin Acres on a 2.18-acre parcel. The petitioner has requested to build a 30' x 42' storage shed. Community Development Director Craig Hoium received a response from Jeff and Rene Anderson who have "okayed" this variance. The Planning Commission has recommended approval by a 5-0 vote and have included Findings of Fact. Mr. Hoium said the petitioner does not have an intent to subdivide. Council



Member Chamberlain asked whether the petitioner can be prevented from subdividing. City Attorney David Hoversten said that would not be appropriate.

Nathan Swank stated that he has tried to get bids but so far has only been able to obtain one bid. Mr. Swank said the building would be aesthetically pleasing. Additionally, he will be removing one 1800-square-foot structure. Mr. Swank asked for clarification of the siding issue. The City Code states that he must put up similar siding to the main structure; he plans to put up vertical steel. Mr. Hoium said this matter is not addressed on the application. He said this matter came up at the Planning Commission, and he asked City Attorney Craig Byram to research the matter. Mr. Swank requested surety from Council that if his variance is approved, would he be allowed to place vertical steel on his to-be-built pole barn? He does not want to pay another variance fee. City Attorney David Hoversten said the intent of the ordinance is to ensure similar-sidings on a property. For example, if you have a brick home, you wouldn't have a pole shed with steel siding. He added that the discussion was becoming one of architectural/aesthetic judgment. Discussion followed on similar coloring of sidings. City Attorney David Hoversten said this should really not be a legal determination; Council can proceed with Findings of Fact if they so feel that this decision needs to be on a factual basis. City Engineer Jon Erichson said that previously the City has addressed concerns of pole buildings, and the intent was to try to get these larger structures to conform to the neighborhood. Mr. Swank asked if Council does not pass this variance, would he be allowed to place steel siding on his existing structure? Mr. Hoium said the city ordinances limits new structures. Mr. Swank said he hopes to match exterior finishes. Council Member Nordin suggested Council table the matter. Mr. Swank said that would further push his project back; as it stands now, he can't get more bids. He noted that he is proposing a pole building with vertical siding with two-tone color – approximately two to three feet of wainscoting on the bottom and another color on the top. He added that the structure's dimensions will be 24' x 36' because of a wraparound porch, further making this building more appealing. Council Member Christopherson said he visited Mr. Swank's property and found it to be a huge lot. He noted that one structure is coming down; the new proposed shed will be an improvement to the property. Mr. Swank requested Council commit to him regarding the vertical siding so he wouldn't have to reapply for another variance. Mr. Hoium again noted that Mr. Swank's application dated June 26, 2003 only addresses the 1000-square-foot issue. City Attorney David Hoversten said Mr. Swank should not have to re-apply for a new variance. He recommends amending this variance application and accessory structure with limitations as to vertical siding, etc. This matter would then need to go back to the Planning Commission, and then have it come back to the Council again. Mr. Swank said he did not wish to delay the matter further. Mr. Hoversten said he had two choices: amending the variance application and going back to the Planning Commission or keeping the petition as it stands. Mayor Rietz added that Mr. Swank would not have to pay another fee if he chose to re-apply. Mr. Swank chose to amend the variance.

Mr. Swank withdrew his current petition.

Moved by Council Member Nordin, seconded by Council Member Pacholl, adjourning the Board of Adjustments and Appeals and resolving back into the City Council. Carried.

The City has received requests from Mower County for the county fair in exchange for city services. City Engineer Jon Erichson said this request is a little different from previous years. There is no provision in the current request for the city to dump snow in the pit east of the fairgrounds. Mr. Erichson said this is significant because it was one of the most important things the City received from this agreement; the City no longer uses the fairgrounds for a leaf site in the fall. The County currently has the pit property up for bids; if sold, however, the City can use county property on 8<sup>th</sup> Avenue for snow dumping. Mayor Rietz advised that this addition should be so stated in the agreement.

Moved by Council Member Nordin, seconded by Council Member Chamberlain, approving the Mower County fair request in exchange for city services. Carried.

Director of Administrative Services Tom Dankert is requesting the council approve a new capitalization policy for \$5000 for non-enterprise/internal service fund assets. This is due to a new reporting requirement for governments – GASB 34 – which will add many hours of additional work. The current capitalization policy is for \$500. The new policy would streamline the process and make recordkeeping easier. This requires a resolution.

Moved Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving the new capitalization policy. 6-0. Carried.

City Administrator Jim Hurm said Council has completed the Community Vision after working on this for two months. It is an official statement of the city council on what they need to be working toward for the City of Austin.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting the Community Vision Statement. Carried.

Council also has worked on organizational values. City Administrator Jim Hurm said it is important to establish values when making decision. It can be considered a base foundation for the city organization.

Moved by Council Member Pacholl, seconded by Council Member Nordin, approving the Organizational Values Statement. Carried.

City Engineer Jon Erichson presented a proposal received from Alliant Energy to perform a feasibility study and grant application for the potential use of methane gas produced at the WWTP. A feasibility study on this was done approximately 10 years ago, but since then technology has changed and costs have increased. The feasibility study will cost \$24,535 to be divided between the industrial and domestic plants.

Moved by Council Member Christopherson, seconded by Council Member Nordin, adopting a resolution approving feasibility study and grant application for the use of methane gas produced at the Wastewater Treatment Plant. 6-0. Carried.

Herrick and Potach Dental have requested permission to turn an existing tree trunk on the city boulevard into a wood-carved toothbrush sculpture. The item was discussed and tabled

at the July 7, 2003 city council meeting. City Administrator Jim Hurm stated that Community Development Director Craig Hoium, City Engineer Jon Erichson, City Attorney David Hoversten and discussed provisions for this type of request. Their conclusion was that there can be liability but no more than a full tree would be. It was their opinion that there is little concern if Council approves each type request on a one-one basis. Requests can be granted with the understanding that the City can remove the sculpture at any time. Council Member Pacholl questioned how the City can legally stop someone from having a tree trunk carved into a swastika. Does the City have the right to get around that? City Administrator Jim Hurm stated that if at any time in the future Council is uncomfortable with a request, the practice can be discontinued at that time. Council Member Goodnature thinks this request is a "neat idea", but are we setting ourselves up? City Attorney David Hoversten stated he didn't think so; he views this as a rather benign request. Council should look at the total picture. It is his opinion that Council can permit this sculpture with the condition that the City has the right to remove it at any time. Council Member Pacholl agreed that these requests should be handled case by case. City Engineer Jon Erichson clarified that no advertising would be on the structure. Mayor Rietz noted that the city of Plymouth has several wood carvings around their city.

Moved by Council Member Goodnature, seconded by Council Member Chamberlain approving a tree sculpture on a city boulevard. Council Members Christopherson, Nordin, Koch, and Pacholl voted nay. Motion denied.

Alma Cotter was appointed to the Library Board at the last city council meeting. It was found that she does not live within city limits; therefore, Mayor Rietz is recommending the appointment of Juan Ramierz, 404 SW 5<sup>th</sup> Street to the Library Board.

Moved by Council Member Nordin, seconded by Council Member Pacholl approving the appointment. Carried.

Mayor Rietz also recommended the appointment of Lisvel Valerio, 1809 NW 6<sup>th</sup> Avenue, to the HRA Board. Lisvel is a resident of an HRA facility, a requirement for this position.

Moved by Council Member Nordin, seconded by Council Member Pacholl, approving the appointment of Lisvel Valerio. Carried.

Moved by Council Member Nordin, seconded by Council Member Chamberlain, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 509 SW 4<sup>th</sup> Avenue, Carol Guy. Carried.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 1007 NE 5<sup>th</sup> Avenue, Michael Karnes property. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 806 NE 5<sup>th</sup> Avenue, Hazel Erickson. Carried.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 1904 SW 22<sup>nd</sup> Drive, Robert Mitchell. Carried.

Moved by Council Member Nordin, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 903 SW 9<sup>th</sup> Avenue, Raymond Sheldon. Carried.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 1700 NW 5<sup>th</sup> Avenue, Billings/Koenigs property. Carried.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles and junk at 801 NW 4<sup>th</sup> Street, Stevens property. Carried.

Moved by Council Member Pacholl, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles at 911 SE 12<sup>th</sup> Avenue, Tamara Drees property. Carried.

Moved by Council Member Pacholl, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of inoperable vehicles at 1701 NW 5<sup>th</sup> Avenue, Russell Norris property. Carried.

Moved by Council Member Christopherson, seconded by Council Member Nordin, granting the Planning and Zoning Department the power to contract for the removal of junk at 1803 NE 4<sup>th</sup> Avenue, Seti Fernandez property. Carried.

Moved by Council Member Nordin, seconded by Council Member Pacholl, granting the Planning and Zoning Department the power to contract for the removal of junk at 506 NE 11<sup>th</sup> Street, Jerome and Julie Clennon property. Carried.

Moved by Council Member Pacholl, seconded by Council Member Christopherson, granting the Planning and Zoning Department the power to contract for the removal of junk at 510 SE 2<sup>nd</sup> Street, Clemence Weber property. Carried.

The City has received a request from Rolf and Faye Bollingberg for a sign appeal at 704 West Oakland Avenue, located in a B-2 District. The appeal would allow one for one extra free-standing ground sign. The one existing ground sign would be relocated closer to 6<sup>th</sup> Street NW. The existing ground sign would be replaced with a directional sign for off-street parking and would also include office hours. The Planning Commission has recommended approval by a vote of 5-0.

Moved by Council Member Christopherson, seconded by Council Member Pacholl, approving the sign appeal. Carried.

The City has received a request from Tom Sherman for an off-street parking appeal for the proposed redevelopment of property located at 1314 Oakland Avenue West. This is located in a B-2 District adjacent to the southwest corner of Wescott Field. This appeal would waive 14 of the 74 required off-street parking stalls. In a B-2 District, one parking stall is required per 175 feet for a retail establishment. Included in the development plan is a drive-up, which would reduce the need for off-street parking. The proposed drive-up may require vacation of a public right-of-way on 1<sup>st</sup> Avenue NW. The Planning Commission recommended approval of the appeal by a 5-0 vote. Council Member Goodnature asked if Council had ever approved something like this without knowing what the development is. Community Development Director Craig Hoium said some appeals were issued around the high school when that was being developed. He said this appeal is a pre-condition of the sale of property. Council Member Pacholl asked what happens if the appeal is approved and if the vacation is denied. Mr. Hoium said the petitioner could re-petition for an alternate appeal. He said this request is specific enough to one buyer/developer; the appeal does not need to be contingent on the one buyer. Council Member Goodnature noted his confusion of the order of the requests. He asked if Mr. Hoium is comfortable with it. Mr. Hoium answered he was.

Moved by Council Member Koch, seconded by Council Member Christopherson, approving the off-street parking appeal. Carried.

Council approved the 160-hour limit of donated sick leave for Loren Allas from the Street Department on June 16, 2003. Mr. Allas is still unable to return to work and Council is requested to approve additional donated sick leave over the 160 hours.

Moved by Council Member Nordin, seconded by Council Member Chamberlain, approving the sick leave donation. Carried.

Council Member Goodnature stated that the HRA Board approved a purchase of the Usem's property, and the motion was made contingent Tom Sherman selling the Usem's showroom property to the County. He said this contingency is very critical. He said it was a close vote, but it was approved by the HRA. The City Council, then, approved the HRA purchase of property without this provision. He requests that the City Council withdraw its \$225,000 grant to the HRA.

Moved by Council Member Goodnature, seconded by Council Member Pacholl, that the Council withdraw its \$225,000 grant to the HRA.

Council Member Tracey Chamberlain said that it was also his understanding that the grant would include stipulations.

Mayor Rietz asked if Council can bring back a resolution which has been previously passed. City Attorney David Hoversten said Council may bring back a resolution and rescind it; however, upon doing so, there is a potential problem of citizens relying upon the Council's representation.

Mayor Rietz said the resolution Council passed was not contingent on the County's purchase. She said the HRA voted 3-1 not including that contingency.

Council Member Christopherson said that this item was discussed at a work session, and a “great majority” of Council believe the agreement language was changed. Council Member Christopherson agreed, saying he didn’t believe the resolution would otherwise have passed. He said the City has no need for that strip of property. Council Member Goodnature said he was disturbed; he said he feels like things are happening “behind scenes.” He added that he made the motion, and it has been seconded.

Mayor Rietz asked if Council felt it mattered if full Council was not here. Council Member Chamberlain said if Council wait, the vote would still be marginal. Council Member Goodnature said he though it would be “less problemsome” if they voted on the motion now.

Director of Administrative Services Director Tom Dankert handed out copies of the city council minutes of May 5, 2003. Mayor Rietz read the minutes pertaining to the matter.

Council Member Nordin said she felt that the HRA Board minutes were changed.

Council Member Goodnature said this is conclusive: of the HRA members, three are present. He said he believes the former city administrator changed the HRA Board minutes, the minutes were properly amended on April 21. Mr. Dankert said the HRA Board minutes are the responsibility of the Executive Director, which at that time was Patrick McGarvey. He is solely responsible for drafting the minutes. Council Member Nordin said she was never called about the change, and she called the motion.

Council Member Tracey Chamberlain said there have been a “number of misunderstandings” in this matter.

Council Member Goodnature said Council should withdraw the grant and rescind the resolution.

Council Member Koch asked what legal ramifications the City could face. City Attorney David Hoversten said there may or may not be serious ramifications.

Moved by Council Member Goodnature, seconded by Council Member Pacholl, to rescind the resolution granting the HRA \$225,000 for purchase of the Useem’s property. 4-2. Council Members Koch and Chamberlain voted nay.

Mayor Rietz asked if she had the right to veto. City Attorney David Hoversten said resolutions cannot be vetoed; ordinances can be. Mayor Rietz recalled a veto of Former Mayor John O’Rourke regarding membership in the Coalition of Greater Minnesota Cities. Mr. Hoversten said he could not speak to that because he was not there. Mayor Rietz stated for the minutes that if she had the right, she would veto the above resolution.

Reports:

A preliminary budget work session was set for August 18 to start at the end of the council meeting. An additional budget work session was set for August 25 at 5:00.

After checking the City Code, City Attorney David Hoversten said the mayor may fail to sign the resolution and return the resolution indicating the reason for not signing. The City Council can then reconsider passing the resolution. Mr. Hoversten also stated that the City Code states that only ordinances or regulations may be rescinded – regulations meaning rules or rules of procedure.

City Engineer Jon Erichson said downtown parking was discussed at the City-County meeting, and the item is on the work session agenda for July 22. One possibility for parking is the use of the old library lot.

A second application for mosquito spraying will occur tonight.

Fourteenth Street NW is expected to open up next week.

Council Member Christopherson questioned Mr. Hoium on the fence problem brought to Council by Dixie King at the previous council meeting. Mr. Hoium said staff has gone out to the property but have not found anyone there. He said the property owner had previously told him he was going to resolve the problem.

Mayor Rietz said Council had referred the proposed liquor ordinance to the August 4<sup>th</sup> council meeting but she is requesting to change to the August 18<sup>th</sup> council meeting so this can be discussed at the August 5<sup>th</sup> work session. Council agreed to the change.

Moved by Council Member Nordin, seconded by Council Member Christopherson, adjourning the meeting to August 4, 2003.

Adjourned: 8:49 pm

Approved: Aug. 4, 2003

Mayor: \_\_\_\_\_

City Recorder: \_\_\_\_\_