



**Regular City Council Meeting
Minutes
City Hall Council Chambers, 2660 Civic Center Drive
Monday, January 26, 2009**

1. Call Roll

Mayor Klausing called to order the Roseville City Council regular meeting at approximately 6:00 p.m. and welcomed everyone.

(Voting and Seating Order for January: Roe; Johnson; Pust; Ihlan; and Klausing)

City Attorney Jay Squires was also present.

2. Approve Agenda

Councilmember Roe requested the addition of Action Item 12.g entitled, "Consider Additional Date for Interviewing Candidates for Reappointment to Advisory Commissions."

Councilmember Ihlan requested removal of Consent Agenda Item 7.g entitled, "Adopt a Resolution Allowing Submission of a DEED Redevelopment Grant for the Har Mar Apartments Project" for discussion purposes.

The agenda was approved by consensus as amended.

3. Public Comment

Mayor Klausing called for public comment by members of the audience on any non-agenda items. No one appeared to speak.

4. Council Communications, Reports, Announcements and Housing and Redevelopment Authority Report

a. Living Smarter Home and Garden Fair Update

Community Development Director Patrick Trudgeon distributed to Councilmembers "Rethink Recycling" canvas grocery bags, and a brochure detailing the annual Roseville Home & Garden Fair event, with this year's theme focusing on "Living Smarter."

Housing Program Coordinator Jeanne Kelsey advised that the event is scheduled for February 21, 2009 from 9:00 a.m. to 3:00 p.m. and highlighted some of the opportunities available that day. Ms. Kelsey advised that additional promotion of the event would be provided in the local newspaper the week prior to the event; in kid's take home backpacks; and other methods.

Mr. Trudgeon distributed a sign up sheet for Councilmembers, seeking their assistance at the City's booth, along with staff, to distribute recycling bins to resi-

dents. Ms. Kelsey expressed staff's excitement about the work accomplished and commitment seen to-date in bringing this event together; and thanked vendors, seminar presenters, and sponsors of the event.

Mayor Klausing thanked staff for their work on the Fair, noting past success of this event; and expressed his appreciation to staff for focusing the event on living smarter, consistent with today's lifestyles and community needs.

Councilmember Pust echoed Mayor Klausing's expression of appreciation to staff; and also acknowledged and listed those sponsors from the brochure who had made this event possible.

Ms. Kelsey concurred in thanking sponsors, noting that without their sponsorship, the event would not be possible; and noted that this year's event had been expanded to allow an opportunity for non-profit groups to get involved; noted that there was a downtrend in vendors this year; however, noted the addition of community-supported agriculture speakers and booths as a new opportunity for residents at this year's event.

5. Recognitions, Donations, Communications

a. Recognition of NYFS President and CEO Kay Andrews

Chief Carol Sletner, on behalf of the Roseville Police Department, presented a Certificate of Appreciation to Ms. Andrews for her 33 years of service to citizens of Roseville and to the Roseville Police Department. Chief Sletner expressed her personal appreciation of their professional partnership, and wished Ms. Andrews well in the next phase of her life.

Mayor Klausing read the proclamation declaring February 5, 2009 as Kay Andrews Day in the City of Roseville, in recognition of Ms. Andrews many contributions to area residents and families.

Pust moved, Roe seconded, proclamation of February 5, 2009 as Kay Andrews Day in Roseville, in recognition of the enthusiasm, determination, concern and accomplishments of Ms. Andrews to the community, region, and to youth through her work with Northwest Youth and Family Services during her years of service.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; Klausing.

Nays: None.

Ms. Andrews thanked the City of Roseville and its citizens; expressing her honor and appreciation for the wonderful partnership she had been involved in through her relationship with the City of Roseville. Ms. Andrews opined that the partner-

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ship would certainly continue with her successor; and recognized that the Roseville City Council had consistently had a member serving on the NYFS Board.

6. Approve Minutes

a. Approve Minutes of January 12, 2009 Regular Meeting

Roe moved, Klausing seconded, approval of the minutes of the January 12, 2009 Regular Meeting as amended.

Corrections:

Page 15, Item 13.a entitled, “Discuss Professional Services Policy” (Roe)

Remove MN State Statute 13.591 (2007) related to data privacy for legal services and receipt of RFP’s; as while the statute was referenced in the meeting minutes, the statute itself was not provided at the meeting and therefore should not be made a part of the meeting minutes.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; Klausing.

Nays: None.

7. Approve Consent Agenda

There were no additional changes to the Consent Agenda than those previously noted. At the request of Mayor Klausing, City Manager Bill Malinen briefly reviewed those items being considered under the Consent Agenda.

a. Approve Payments

Johnson moved, Ihlan seconded, approval of the following claims and payments as presented.

ACH Payments	\$1,084,752.09
54041 – 54164	218,816.32
Total	\$1,303,568.41

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

b. Adopt a Resolution Approving the Minnesota Brass’ request for a Permit to Conduct Lawful Gambling Activities at Joe Senser’s Restaurant, 2350 Cleveland Avenue

Johnson moved, Ihlan seconded, adoption of Resolution No.10681 entitled, “Resolution Approving a Lawful Gambling Premise Permit to Minnesota Brass;” to conduct lawful gambling activities at Joe Senser’s Restaurant, located at 2350 Cleveland Avenue in Roseville, subject to completion of background investigations.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

c. Approve Parkview Center School’s request for a One-day Lawful Gambling License to conduct a Raffle on March 27, 2009

Johnson moved, Ihlan seconded, approval of Parkview Center School’s request to conduct a raffle on March 27, 2009, at the School, located at 701 West County Road B.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

d. Approve HRA’s Request for Temporary Signs for the Living Smarter Home and Garden Fair

Johnson moved, Ihlan seconded, approval of 14 temporary signs for the 2009 Living Smarter Home and Garden Fair, as requested by the Roseville HRA, subject to conditions of Section 2.2 of the project report dated January 26, 2009.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

e. Approve General Purchases or Sale of Surplus Items in Excess of \$5,000

Johnson moved, Ihlan seconded, approval of general purchases and/or contracts as follows:

Department	Vendor	Item/Description	Amount
Finance	MX Logic	Anti-virus and spam protection* <i>*\$4,360 reimbursement by other Joint Power Agreement agencies</i>	\$6,052.60
Streets	Hartland Fuels	Blanket P.O. for fuel – State Bid contract	140,000.00
Streets	Kath Fuel Oil	Blanket P.O. for fuel – other	75,000.00

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

f. Adopt a Resolution for the Final Acceptance and Maintenance for Public Improvements Constructed for Moore’s McCarrons Preserve Plat (PF #3759)

City Manager Malinen noted, as per the staff report, that the City had requested a letter of credit from the developer in the amount of \$7,000 as a guarantee for the two-year warranty period for reseeded areas around the City’s infiltration basins.

Johnson moved, Ihlan seconded, adoption of Resolution No. 10682 entitled, “Final Acceptance and Maintenance for Public Improvements Constructed for Moore’s McCarrons Preserve.”

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

h. Adopt a Resolution Allowing Submission of a DEED Redevelopment Grant for the Twin Lakes Redevelopment Area

Councilmember Ihlan noted in the fourth “BE IT FURTHER RESOLVED” language of the resolution that the City hadn’t violated any Federal, State or local laws...” and questioned if this was standard grant application language.

Mr. Trudgeon advised that this was standard language.

Councilmember Ihlan clarified that the City Council had performed no investigation; and wanted that noted for the record.

City Manager Malinen advised that the language was based on the best of staff’s knowledge as well.

Johnson moved, Ihlan seconded, adoption of Resolution No. 10683 entitled, “Resolution of Applicant for the Twin Lakes Project;” allowing the City to submit a grant application to DEED’s Redevelopment Grant Program for right-of-way acquisition; construction of a segment of Twin Lakes Parkway, Prior Avenue; and associated pedestrian facilities, lighting and utilities.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

8. Consider Items Removed from Consent

a. Adopt a Resolution Allowing Submission of a DEED Redevelopment Grant for the Har Mar Apartments Project (Former Consent Item 7.g)

At the request of Mayor Klausing, City Manager Bill Malinen briefly reviewed this item; advising that the purpose of soliciting the grant was for construction of public sidewalks at the complex (Aeon), an eligible activity for solicitation of these grant funds. City Manager Malinen advised that the complex would have the responsibility to provide matching funds, and upon receipt of the grant, a Memorandum of Understanding would be prepared outlining Aeon’s responsibilities.

Councilmember Ihlan questioned the approval status of the Aeon Project.

Mr. Trudgeon advised that the project was pending final approval, with staff and the property owner meeting later in the week to discuss the next steps, which

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would consist of financing and land use approvals; at which point the process would move forward.

Councilmember Ihlan advised that she was supportive of trying to move the project forward with sidewalks; but questioned if matching funds would be provided from private funds or from other public monies.

Mr. Trudgeon advised that the source had yet to be identified; however, he advised that the source would be clearly a separate set of funds, and further detailed in the Memorandum of Understanding when that source was identified.

Pust moved, Ihlan seconded, adoption of Resolution No. 10684 entitled, "Resolution of Applicant for Har Mar Apartments Project;" allowing the City to submit a grant application to DEED's Redevelopment Grant Program for construction of sidewalks adjacent to the project.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

1. General Ordinances for Adoption

2. Presentations

3. Public Hearings

Mayor Klausing briefly reviewed the three Public Hearings scheduled for tonight's meeting and the process the City Council and staff would follow.

a. Public Hearing regarding Ordering the Improvement and Preparation of Plans and Specification for Reconstruction of Roselawn Avenue between Hamline and Victoria

Mayor Klausing opened the Public Hearing at 6:21 p.m.

City Engineer Debra Bloom provided an overview of the project before the City Council for consideration for reconstruction of Roselawn Avenue between Hamline Avenue and Victoria Street. Ms. Bloom advised that the project was to be undertaken as part of the 2009 Pavement Management Program (PMP); and combined under one contract with the City's Mill and Overlay Project to facilitate competitive and favorable bids from contractors.

Ms. Bloom reviewed the area proposed for reconstruction; past history of the street; problem areas along the roadway; and noted the numerous neighborhood meetings, as well as walk-through with residents and staff held in October of 2008, followed by an additional neighborhood meeting. Ms. Bloom noted that the Feasibility Study, as presented to residents, had been received by the City Council at their December 15, 2008 meeting, and authorized preparation of final plans and

specifications; with staff returning in February of 2009 after their finalization, for City Council authorization to staff to solicit bids.

Ms. Bloom noted two minor changes: driveway grade corrections as appropriate, and roadway width to save nine mature trees and provide parking on a portion of the 32' wide portion of the roadway. Ms. Bloom reviewed both segments of the reconstruction project: Hamline to Lexington, and Lexington to Victoria, and the specific components of each segment.

Ms. Bloom summarized the proposed final roadway design; completion of the pathway corridor; reconstruction of public utilities (both City-owned and private); drainage corrections; and private work (i.e., driveways and driveway aprons) to be completed. Ms. Bloom noted that there would be a striped shoulder on the south side of the road; and pedestrian amenities would include a new sidewalk on the south side, with that side chosen as there were fewer conflicts and it provided more continuity, and had been negotiated with residents. Ms. Bloom advised that the boulevard had been eliminated, and that proposed planters were not included in the final project, following feedback from the neighborhood. Ms. Bloom noted that portions of the existing bituminous pathway adjacent to Reservoir Woods would need to be repaired as part of the project.

Ms. Bloom noted that this area had experienced numerous water line breaks, and that the watermain would be replaced for the entire length of the roadway; and approximately half of the sanitary sewer system would be replaced, as following televising of the system, it was clear that trenchless technology would not be prudent, given the number of sags, and past breaks.

Ms. Bloom addressed drainage issues on this rural cross-section roadway, and the drainage issues experienced with some private driveways; advising that to correct this issue, the roadway would be lowered in a number of areas to make the grades work better for property owners; and that bad soils would be reformed; catch basins adjusted; and ditches/yards would be regarded to drain into the City's storm-water system. Ms. Bloom further advised that, based on Best Management Practices, and in working with property owners as well as the Capitol Region Watershed District, where possible, bio-retention fields and/or rain gardens, infiltration basins, and infiltration trenches would be installed in 14 locations to meet water quality and water quantity goals for the City and the Watershed District; with rain gardens installed in boulevards at approximately 14 homes to goals for City and Capitol Region to alleviate drainage and runoff.

Ms. Bloom noted that, in conjunction with this City project, property owners could choose to perform private work as well (i.e., sanitary sewer services; and driveway reconstruction) provided payment was made by the property owner upfront.

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Councilmember Roe questioned whether watermain replacement could be paid upfront or put on assessments.

Ms. Bloom clarified that sanitary sewer and water replacements could be put on the property taxes; but that driveway work could not be applied to taxes.

Ms. Bloom reviewed the estimated project cost; roadway tonnage; favorable bid climate being experienced by neighboring communities at this time; and provided a briefing on the City's current Assessment Policy and cost per foot estimates for each property owner, with an average assessment for an 80' wide lot estimated at \$3,844.80, or \$48.06/foot based on the property owner paying 25% of the total cost/foot.

Ms. Bloom, at the request of Councilmember Johnson, reviewed the City's Corner Lot Policy; replacement of sanitary sewer from manhole to manhole when possible; unique property and assessment situations; and the availability of hardship applications for deferrals for senior citizens as applicable.

Ms. Bloom noted that the purpose of tonight's Public Hearing was for presentation of the Feasibility Report; and that the Assessment Hearing itself would not be held until 2010, following completion of the project in 2009 and if bids were authorized and favorable; with property owners seeing assessments on their 2011 property taxes. Ms. Bloom further noted that, upon receipt of the bids, if staff determines that they were not favorable, they would recommend to the City Council that the bids be rejected with no award of bid.

Ms. Bloom reviewed proposed project funding, including Minnesota State Aid (MSA) Street funds; utility funds; and assessments, as detailed in the staff report for each construction component.

At the request of Councilmember Ihlan, Ms. Bloom clarified the City's Assessment Policy related to specific and separate calculations for corner properties; and confirmed that the City's current Assessment Deferral Policy only applied to senior citizens or disabled persons.

Councilmember Ihlan expressed concern about payment being a financial hardship for others as well, particularly when facing an assessment during a difficult real estate situation.

Councilmember Roe noted that, if the property owner was unable to pay upfront, unpaid assessments were spread over a period of time at current interest rates; and that the assessments would not be realized by property owners until their first-half tax payment in 2011.

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Ms. Bloom confirmed that normal practice of the City had been to spread the payment term over a 15 year period; and that interest rates were also set at the time of the Assessment Hearing, based on General Obligation Bond interest rates; with the last project's interest rate established at seven percent.

Councilmember Roe further noted that through the State of MN, property owners could apply for a general property tax deferral based on financial hardship, age notwithstanding.

Mayor Klausing refocused discussion on whether the project should be authorized or not; noting that the assessment rates would be considered after completion of the project.

Mayor Klausing noted that the project had been initiated at the recommendation of staff, not by petition of 35% of the property owners; thus making the vote subject to a super majority vote of the City Council.

City Attorney Jay Squires confirmed Mayor Klausing's observations; based on State Statute No. 429 for local improvements.

Staff noted that due notice by mail and publication had been provided for tonight's Hearing.

Public Comment

City Manager Malinen noted receipt by staff via e-mail that he would summarize as objecting to the project, based on economic hardship and timing of this project. Those residents providing written comment included:

Scott & Roxi Sheldon, 1265 West Roselawn Ave.
Lois Forsblad, 1057 Harriet Lane West

Douglas Taylor, 1230 Roselawn Avenue (corner of Roselawn and Fernwood)

Mr. Taylor sought the meaning of the term "deferral," of assessments; with Ms. Bloom advising that the assessment would still accrue interest until the property owner's circumstances changed or until the home was sold.

Mr. Taylor sought additional clarification for his corner lot; and assessments along both streets; with Ms. Bloom offering to review Mr. Taylor's specific situation following the Public Hearing to address his concerns.

Frank Konstantinides, 1911 Dellwood Lane

Mr. Konstantinides thanked Ms. Bloom for her gracious representation of Roseville citizens.

Mr. Konstantinides, as a walker and runner, expressed concern with installing the sidewalk on the south side of the street; noting that it can't be used during a major

part of Minnesota winters/springs due to ice and snow formation from road plowing, and lack of sun and shade experienced on that side. Mr. Konstantinides opined that this created a dangerous situation and was of concern to him.

Mr. Konstantinides further opined that, while recognizing that this may be a hardship for lots of people; with the City and State providing partial funding, it was a good deal for taxpayers, and if the project were delayed, it may end up costing homeowners more in the long run.

With no one else appearing to speak, Mayor Klausing closed the Public Hearing at 6:50 p.m.

b. Public Hearing regarding Imposition and Collection of Fees for the Housing Improvement Area of Westwood Village I

Mayor Klausing opened the Public Hearing at 6:50 p.m.

Community Development Director Patrick Trudgeon provided a brief overview of the project and creation of a Housing Improvement Area (HIA) for Westwood Village I for exterior improvements to the privately and individually-owned, 47 unit complex, due to lack of private financing available to residents. Mr. Trudgeon noted that the cost of improvements were estimated to be \$1,595,336.25 and included replacement of all siding, roofs, gutters, downspouts, and necessary and incident related improvements and repairs to the housing units and garages within the Westwood Village I, along with a 20% contingency. The staff report dated January 26, 2009, and multiple attachments, provided extensive detail of the history of the project; and proposed assessments, in accordance with the Homeowner Association's Second Amendment Declaration (Attachment D) for allocation of the costs of labor and materials equally divided among all 47 homeowners.

The Public Hearing information included copies of Assessment Notices provided to property owners; and an attachment dated January 14, 2009 from Maureen Dalnes, property owner at 2664 Mackubin Street, Westwood Village I.

Mr. Trudgeon referenced a number of e-mails and correspondence received related to this project and provided as bench handouts.

Noting the number of potential speakers related to this Item, Mayor Klausing respectfully requested that comments be kept brief; and non-repetitious to the extent possible. Mayor Klausing noted that the City Council had received e-mails to-date, numerous phone calls, and asked that comments remain focused on the requested action before the City Council tonight: to determine the fairness of the proposed assessments. Mayor Klausing recognized that emotions were intense, and each side was passionate about their perspective of fairness. Mayor Klausing assured residents that the City Council would consider the fairness of their decision for both sides, and with the overall well-being of the entire Westwood com-

munity at the forefront of their decision-making process. Mayor Klausing asked that speakers not comment on past grievances.

Public Comment

Sarah Maristuen, M & H Property Management and Consulting (P. O. Box 131957, Roseville, MN)

Ms. Maristuen advised Councilmembers that their firm had been representing the Westwood Village I Homeowner's Association for over three years; and thanked Councilmembers for their consideration.

Ms. Maristuen opined that this proposed assessment was financially manageable; and read her written comments in support of the project; rationale for a re-write of the Association's 1960 governing documents due to the difficulty in understanding and implementing their vague directives; and the reason for this current situation as the Association Board was faced without substantial association funds to pursue this large-scale and necessary reconstruction project.

Ms. Maristuen noted that, historically costs for major projects (i.e., siding, roofing, roadway improvements) were allocated 1/47. Ms. Maristuen reviewed the transparency of the entire process to-date, communication and meetings with owners, and opined that the Board of Directors had gone above and beyond their duties to create a compromise as represented by the proposed cost allocation. Ms. Maristuen noted that the membership overwhelmingly approved the Association's recommendations; as well as receiving support of the attorney's representing the minority homeowners.

Ms. Maristuen requested that the City Council support this request, thus providing an opportunity for the City Council and Westwood Village I property owners to sustain homes for the future, based on the manageability of this financial proposal.

At the request of Councilmember Johnson, Ms. Maristuen advised that over 75% of the association membership approved the new governing documents.

Matt Zinser, Load-Bearing, Inc., Construction Management Services (3010 Minnehaha Avenue S., Mpls., MN)

Mr. Zinser thanked the City Council and the Board membership for their work to-date on this process, reading from his written comments. Mr. Zinser noted the overwhelming support (91%) of the owners for this process; and advised that he had no vested interest in the project. Mr. Zinser reviewed the bidding process, receipt of six bids, due diligence in reviewing those bids by his consulting firm, reference checks, inspections of previous installations by the company, and ultimate recommendation of Eagle Siding, Inc. (1301 E. Cliff Road, Suite 117, Burnsville, MN). Mr. Zinser noted that, at this time, the extent of deterioration under the siding was an unknown, and that the project must move forward to avoid further de-

terioration, and noting that the roof had far exceeded it's life expectancy; and further noted deterioration of existing decking and siding, which all served to further decrease property values. Mr. Zinser, in response to minority property owner allegations that the process was unfair, advised that based on topography variables, and siding on end units, common areas were reviewed and the proposed association-shared expense allocation was deemed fair for all parties.

Michael Klemm, Attorney for the Association (Severson, Sheldon, Dougherty & Molenda, P. A., 7300 West 147th Street, Suite 600, Apple Valley, MN)

Mr. Klemm advised that he had been hired in 2006 by the Association Board to review their Declarations and governing documents, which were approximately 40-years old and original to the formation of the Association.

Mr. Klemm advised that, upon completion of his review, he found several portions of the documents to be vague and lacking clarification, and reported such to a meeting of the Association, with Attorney Wade Brooks representing five minority position unit owners, present at the meeting and in agreement that the association documents should be revised, and apparently also in agreement with the draft documents, with the exception of cost allocations for siding replacement.

Mr. Klemm further advised that, due to those minority concerns and the proposed cost allocation for exterior maintenance issues, a subsequent meeting was held and an ultimate compromise following substantial work by the Association to achieve the current allocation addressed in the Second Amended Declaration for Common Interest Community No. 727, Westwood Village, as recorded in the Ramsey County Recorder's Office as Document No. 4093011; and validly adopted pursuant to the requirements of MN Statutes, Chapter 515B (the Minnesota Common Interest Ownership Act). Mr. Klemm noted that the Association had spent \$30,000 in attorney fees in addition to time and energy invested in the process, to facilitate needs of the community to satisfy mortgage holders and accommodate title issues. Mr. Klemm opined that the final allocation was fair for all.

At the request of Councilmember Pust for clarification, Mr. Klemm advised that the Association had been incorporated prior to creation of Chapter 515B, and would not have been required to subject themselves to the Act; however, he noted that many associations choose to do so, as it provides good governing guidelines.

At the request of Councilmember Johnson, Ms. Maristuen confirmed that the current Association fees were \$256 per month effective in April of 2008; and that they had previously been \$244 per month.

Councilmember Roe sought clarification that the allocation change was a direct result of recognizing State Statute Chapter 515B.

Mr. Klemm advised that it was not a change, but based on the original declarations, to clarify how the cost of exterior maintenance would be allocated if part of a major project that equally benefited all units, and taking into consideration costs of labor and materials for each unit and incorporating other costs for common areas. Mr. Klemm noted that this was the result of the September 26, 2008 association meeting where many owners were supportive of dividing costs equally, but owners of smaller units disagreed, at which time further consideration was given to provide something more amenable to those smaller units.

Maureen Dalnes, 2664 Mackubin

Ms. Dalnes read written comments dated January 26, 2009 from Mr. Jack Cann of the Housing Preservation Project (HPP), a Public Interest Law Firm (570 Asbury Street, Suite 105, St. Paul, MN), attached as a bench handout and referenced a related article in today's paper, addressing Minnesota Statutes, Section 428A.14, subd. 1; alleging glaring discrepancies with staff's comments and disputing the basis for allocation of costs and imposing fees on homeowners.

Councilmember Pust clarified and Ms. Dalnes confirmed, for the record, that Mr. Cann did not represent her, but that he was an attorney with HPP.

Ms. Dalnes spoke in opposition to the proposed cost allocation and assessments; and reviewed her comments as written to the attention of the City Council, dated January 14, 2009, and included in the Council Agenda packet as Attachment B.

Ms. Dalnes supported calculations based on interior square footage; and as a homeowner of one of the smaller units, opined that the loan amount and actual square footage amounts using Ramsey County numbers, was not accurately represented by the City's staff. Ms. Dalnes reviewed past practices for end units; and alleged that the smaller units were subsidizing the larger units, at the instigation of owners of those large units. Ms. Dalnes provided her suggested way to more fairly distribute costs, based on interior rather than exterior square footage; and further alleged that the timing of the project and change of the original association declarations represented a personal attack on her, as she indicated on a copy of the association board minutes dated August 7, 2006. Ms. Dalnes opined that an HIA was set up to help lower income people; however, if funded by the City of Roseville as the board proposes, the City will be giving a hand out, rather than a hand up, at the expense of smaller unit owners. Ms. Dalnes asked that Councilmembers follow Ramsey County guidelines for HIA, as a first project for the City and as an example for projects that may follow, to allocate costs so each unit paid their own costs, and a portion of the end units. Ms. Dalnes further opined that the Board had neglected their fiduciary responsibilities; and asked that the City Council remedy that situations and exercise their duty for fairness to members of the association and all Roseville residents.

Frederick Blanch, 2728 Mackubin

Mr. Blanch spoke in support of the cost allocation as presented; opining that if interior work was being done, it would be appropriate to allocate costs based on interior square footage, but not for exterior materials and replacement of roofs and siding. Mr. Blanch opined that the figures were provided by bidders, at the request of homeowners, based on compensating for differences in materials costs and labor for each unit and compensated accordingly.

Jana Rieck, 2668 Mackubin

Ms. Rieck advised that she had purchased her unit in September of 2005, and had been fully alerted to the upcoming siding project; and expressed her willingness to participate in those costs. Ms. Rieck took issue with inflammatory comments or “fire words” of Ms. Dalnes, and alluding to “elderly” and “vulnerable” citizens. Ms. Rieck, as a High School teacher, advised that while she was unable to afford an attorney to represent her personally, the association was well-served by their attorney in representing the homeowners and association. Ms. Rieck asked that the City Council no longer delay this project, already under discussion for three years, and due to the dramatic increases of construction costs, simply based on the lack of support of a total of five minority property owners.

Ms. Rieck addressed the size of the units and perceived disparities; commonalities of all units; the work of the association going above and beyond their duties in providing the best most honest information available to achieve fairness for the overall community; opining that any improvements done to the exterior benefits everyone in Westwood Village I and as a model for the entire City of Roseville, its residents and visitors to the City. Ms. Rieck further opined that individual needs and concerns had been addressed throughout the process ad nauseam; and it was now time to take care of the needs and concerns of the entire Village before individual owners were forced into foreclosure proceedings. Ms. Rieck spoke to her personal financial situation and inability to obtain a personal loan to make all of the improvements required; and noted her intent to make other improvements as part of the project (i.e., insulation) and opined that time was of the essence for construction projects before they experienced further increases. Ms. Rieck asked that the City Council take action benefiting the entire Westwood Village and not waste any more time, and asked that they act for all.

Ms. Rieck, in conclusion, quoted a portion of the City’s proposed Comprehensive Plan Update, in the community’s pride in safe and well-maintained housing and business properties; and opined that if not approved, there would be a severe blight on Mackubin Street.

Mary Ellen Mayerle, 2692 Mackubin

Ms. Mayerle advised that she had purchased her unit in 2000, under the original covenants, and had made numerous improvements at her personal expense. Ms. Mayerle noted that when the original discussions began regarding replacing the roofing and siding, it was found that the original covenants had vague terms, and

when voted upon, 80% of the homeowners voted for changes to the governing documents, at great expense to the association for attorney fees and recreating the documents, with the majority also supporting adopting pursuant to requirements of the MN Common Interest Ownership Act (MNS Statutes Chapter 515B). However, Ms. Mayerle opined that the change was for the benefit of the 41 large units and one large end unit; and further opined that it was the civic and moral responsibility of the City Council to be fair to all citizens.

Scott Smart, Son-in-law of Mary Ellen Mayerle

Mr. Smart opined that he was insulted by the comments directed to Ms. Dalnes. Mr. Smart opined that his mother-in-law owned one of the small units, and that it obviously didn't measure the same as other units. Mr. Smart further opined that if the City Council approves this \$32 – 33,000 assessment, given inflationary considerations, it would be detrimental to property owners. Mr. Smart alleged that the covenants had been changed for the express purpose of benefiting the association.

Denise Chamblee, representing her mother, 2640 Mackubin Street (and her recently-deceased father)

Ms. Chamblee respectfully asked that the City Council take action tonight, without further delay. Ms. Chamblee addressed the ever-increasing costs for the project; impacts to her family the longer the project was delayed; and asked that the City Council make a fair decision tonight. Ms. Chamblee opined that people couldn't continue to go on with this situation pending and noted that the community was being torn apart due to dissention regarding the project, in addition to the money expended so far and attempts to keep the property presentable.

Michael Martell, 2666 Mackubin Street

Mr. Martell disclosed that his wife as of September of 2008, the former Sue Shea, was the ex-president of the association. Mr. Martell opined that, in his short time in the Westwood Village community, it was filled with the finest people he'd ever met; wonderful people who do everything they can for their neighbors; and further opined that he didn't want to see it deteriorate further. Mr. Martell advised that he and his wife had known of this upcoming expense, and had discussed relocating when they married; however, he reiterated his impressions of the community itself; and urged Councilmembers to pass this tonight and end the debate.

Sue Martell, 2666 Mackubin Street

Ms. Martell admitted that this entire process had been long and emotional for her; and provided the association board's rationale for redoing the governing documents based on the best advice they received and the need for major exterior work. Ms. Martell noted the hiring of an outside attorney for his interpretation, the subsequent explanation of the vagueness and ambiguous nature of the original documents specifically related to dues, maintenance, and assessments; and further hiring of professionals to assist the board in drawing up plans and specifications

and bidding out the project. Ms. Martell assured Councilmembers and Westwood homeowners that the board did not mandate or dictate anything, but that meeting after meeting was held to seek homeowner input and to ensure the constituents received what they wanted, as was the charge to the association board.

Ms. Martell advised that, as a small end unit owners, she did not express her personal preference for cost allocation until right before the vote of the homeowners; and at that time, she expressed her personal opinion, as a homeowner, that 1/47 was not a fair allocation, given that the square footage on some units was vertical; some had walkout basements; some were fully submerged; and that those things should be taken into consideration.

Ms. Martell advised that it was agreed by all present on the resulting division of costs, as a group decision; and opined that the events had been twisted grotesquely and unfairly by a minority of homeowners; and not representative of actual events. Ms. Martell advised that thousands of dollars had been spent to ensure that the process was done correctly for all concerned and the entire community. Ms. Martell recognized that, in a community, you had to accept that you may not always get your own way or the decision you want; however, she opined that you made that choice when deciding to participate in this type of housing rather than as a single-family homeowner. Ms. Martell advised that the governing documents provided for a change with 75% of the membership voting to do so. Ms. Martell opined that the attacks on the board were completely unjustified; that this represented a fair allocation; and agreed that the Westwood Village was a fine group of people; and asked that the City Council support the majority request, stating that "we're counting on you," which was supported by a round of applause from a majority of the audience in attendance.

Sharon St. Mary, 2726 Mackubin

Ms. St. Mary summarized her written comments sent by e-mail; and asked that the City Council not be swayed by allegations that those in the larger units would benefit from this cost allocation, or that the governing documents didn't need to be clarified. Ms. St. Mary advised that, with this proposed cost allocation, she would pay more; however, she noted that this improvement was being made to benefit all; and that the difference in square footage was only vertical, and not based on the building unit footprints. Ms. St. Mary further opined that each unit shared similarities in the size of their roofs and common walls, with the exception of those on the end; and that a simple percentage of square footage didn't address the issue.

Marie Metzke, 2676 Mackubin

Ms. Metzke advised that she owned an end unit, similar in size to that of Ms. Dalnes. Ms. Metzke spoke in support of how the board and contractors had put together this effort. Ms. Metzke opined that the internal square footage and tax assessment values presented by Ms. Dalnes were a distortion. Ms. Metzke noted

that Ms. Dalnes actually had her unit on the market for sale at \$229,000; and that the market value was based on 1,592 finished square feet; and opined that the calculations provided by Ms. Dalnes did not reflect the true taxable value, but were another desperate attempt to find sympathy for her minority opinion.

Esther Piper, 2712 Mackubin

Ms. Piper noted that she and her husband were the first family to buy into Westwood Village in February of 1969; and that she and her family had lived there since its inception. Ms. Piper spoke favorably of the Village as a community; and the City of Roseville as an attractive place to live; had good schools; and was convenient to work. Ms. Piper expressed her assumption that others had purchased their units based on similar reasons; and opined that during its almost 40 years of existence, the units had been well-kept by a volunteer board and/or professional management paid by homeowners in the form of association dues.

Ms. Piper, in addressing how the current situation had occurred, noted numerous amenities of the community, and how past accomplishments had been achieved through the cooperative planning efforts and work of all homeowners in paying their special assessments, achieving good results for all while living there and for prospective buyers. Ms. Piper opined that, now it was time for the current owners to pay their share of assessments to keep up the value of the improvements; and asked that all owners – those speaking and those in the audience – work together to ensure that the Village was well-maintained and that it was still a wonderful place to live; acclaimed by applause from the audience. Ms. Piper provided a copy of her written comments to City Manager Malinen for the record, *attached hereto and made a part thereof*.

Georgia Nygaard, 2658 Mackubin

Ms. Nygaard advised that in her work in the health care industry, she worked with patients on a daily basis. Ms. Nygaard opined that she found it interesting that the most livid voice currently had her home on the market for sale; and since she was apparently no longer interested in living there, was attempting to destroy this financing option for those families continuing to live there. Ms. Nygaard asked Councilmembers to consider that fact in their decision-making process and when reviewing the financing proposals.

With no one else appearing to speak, Mayor Klausning closed the Public Hearing at 7:50 p.m.

c. Public Hearing regarding Transfer of Off-Sale Liquor License held by Cellars Wines & Spirits Roseville II to Roundy's (Rainbow Foods)

City of Roseville Finance Director Chris Miller summarized the purpose of the Public Hearing to consider transfer of an Off-Sale Liquor License from Cellar's Wines & Spirits of Roseville II to Roundy's (Rainbow Foods) at 1201 West Lar-

penteur Avenue. Mr. Miller advised that representatives of both Roundy's and Cellar's were present.

Mr. Miller reviewed current City Code permitting a maximum of 10 off-sale liquor licenses, all of which are currently in use; and previous requests of Roundy's to obtain a license, and current discussions with an existing license holder to transfer operation of their store to the Roundy's location.

Mr. Miller reviewed consultations with the city's legal counsel regarding determination as to whether Roundy's had satisfied the requirements for licensure; satisfaction by Roundy's of all State Statute and City Code provisions to hold a liquor license, including land use considerations, and background investigations.

Mr. Miller advised that both parties had entered into an agreement for transfer of their license effective March 2, 2009, pending City Council action.

Mayor Klausing opened the Public Hearing at 7:52 p.m.

Max Dickman, Real Estate Developer for Roundy's Supermarket advised that he was present and available for questions of the public or City Council.

Councilmember Johnson asked whether the current manger would remain at the Roundy's site; and what provisions had been made for other employees currently at Cellar's.

Mr. Dickman advised that the Cellar's manager was apparently going to transfer to another of the Cellar's chain liquor stores; and anticipated that Roundy's would be staffing the new liquor store with some of their current employees as applicable.

Mayor Klausing closed the Public Hearing at 7:55 p.m., with no one appearing for or against.

4. Business Items (Action Items)

a. Adopt a Resolution Ordering the Improvement and Preparation of Plans and Specifications for Reconstruction of Roselawn Avenue between Hamline and Victoria

Roe moved, Johnson seconded, adoption of Resolution No. 10685 entitled, "Resolution Ordering Improvement and Preparation of Plans and Specifications for Roselawn Avenue between Hamline Avenue and Victoria Street;" presented as "Attachment A" in the Agenda packet.

Councilmember Ihlan clarified that, while staff was anticipating favorable bids based on the competition available in this current financial market, it would be

possible for the City Council to re-evaluate postponing the project if it was determined to be a significant expense and unfavorable bids were realized. Councilmember Ihlan expressed her concern for residents providing written comments related to potential financial hardships based on the current economic climate.

Ms. Bloom reviewed the process as it currently stands, with tonight's action ordering improvements and asking staff to prepare final plans and specifications; with staff returning in February for approval of those plans by the City Council, at which time the project will be bid. Ms. Bloom advised that, once those bids were received and evaluated, staff would make a recommendation to the City Council as to the benefit of moving the project forward; at which time the City Council would determine if the project would proceed or if the bids would be rejected; and further noted that the neighborhood and affected property owners would be kept apprised throughout the process.

Related to the hardship and policy considerations, Ms. Bloom advised that staff was working under current City policies; and would seek direction from the City Council for staff to review or revisit the current hardship policy, in cooperation with the City Attorney and Finance Director to provide a staff recommendation to the City Council if so directed.

Councilmember Ihlan spoke in support of the motion, opining that it made sense to move forward at this time to determine what type of bids were received; however, with the understanding that the City's hardship policy be reviewed in the interim.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

b. Adopt a Resolution Establishing the Imposition and Collection of Fees in the Housing Improvement Area of Westwood Village I

Mr. Trudgeon and Housing Program Coordinator Jeanne Kelsey were both present to address comments and/or concerns of the City Council. Mr. Trudgeon noted that notices for tonight's hearing, and the requested action of the City Council in adopting the resolution imposing fees, were based on the Second Amended Declaration for Common Interest Community No. 727, Westwood Village; and that each property owner had received notice of the amount of their specific assessment and the payback period.

Mr. Trudgeon clarified common practice of other communities using this type of HIA provision; using examples from the Cities of St. Louis Park and Coon Rapids in specific provisions based on MN Statute.

Mr. Trudgeon advised that an Open Records Request had been received by staff from Mr. Cann at the end of last week, and noted that the referenced "Exhibit E"

would be attached to the City's resolution as "Attachment A;" and providing an assessment breakdown estimate for the Westwood complex per unit.

City Attorney Squires, at the request of Mayor Klausung, suggested additional language for the resolution as the new #1 as follows, and the other items renumbered as #2, 3, 4 and 5:

"The method of cost allocation shall be based on the Association Board's proposed allocation resulting from the Second Amended Declaration dated April 25, 2008; such methodology and cost allocation being more fully set forth in Attachment "A" to the resolution."

Discussion among Councilmembers, staff and applicable Association Board members included current status of the bidding cycle, with costs based on available product currently warehoused by vendors, with those amounts held at those prices from distributors until July of 2009, at which time they will no longer honor those prices.

Buck Christianson, Eagle Siding representative

Mr. Christianson addressed whether the homeowners would realize any cost savings from current markets versus previous bidding climates; opining that shingle prices had already increased 10% since this bid due to petroleum cost increases and those components in both the vinyl siding and roofing materials. Mr. Christianson didn't see much, if any cost savings to be realized; and noted that ongoing delays and unknowns with the project had eroded his profit margin after having bid on the project.

Councilmember Ihlan noted that, when this ordinance had come before the City Council several months ago, she had voted to support it with great reluctance on her part, and opined that the City Council needed to seriously re-examine whether or not to go forward with this project, proposing to use \$1.5 million in public monies to pay for these improvements. Councilmember Ihlan based her concerns on the following issues:

- 1) The project, since it uses public monies, should be considered under open bidding for public contracts, based on transparency, and interested and motivated contractors available at this time. The City considering borrowing money for private property owners with the City paying upfront for these improvements, creates significant concerns that the City's best interests are being served.
- 2) On behalf of the residents of Roseville, why should the City Council give special treatment to residents of Westwood Village I to finance home improvements, when not proposing to do so for anyone else? Why should public dollars be used to fund this project and not other associations or private homeowners for similar purposes?
- 3) This is not an appropriate use of public monies; and private lending options need to be revisited based on changes over the last few months.

- 4) The proposed interest rate to be charged by the City should not be at 7.75%, given the current credit crunch; when the potential exists for economic stimulus monies that may free up private lending funds for this type of project.
- 5) There has been no real analysis done, based on financial need, of whether unit owners can afford this, creating real consequences for those unable to pay upfront, and required to pay interest rates at 7.75%, above market rates.
- 6) Related to the allocation of assessments themselves, additional public policy concerns are still evident.

Mayor Klausing clarified that this was a loan, not “giving away” public money.

Councilmember Ihlan opined that it was public money coming from the City, with proposals to bond for the project. Councilmember Ihlan further opined that the City could create a situation where people could no longer continue to live in their homes and that this would hurt those least able to pay; and questioned what analysis had been done relating to hardship for individual unit owners if the cost allocations were assessed as proposed.

Mr. Trudgeon advised that when an income analysis was first initiated in 2006, it was determined that this need was not based on individual homeowners, but on the association with larger maintenance issues than those of individual units; and that the association was underfunded in their reserves, requiring them to build up those reserve funds. Mr. Trudgeon noted that, as part of that process, it was further determined that the whole entity and organization was severely underfunded at this point.

At the request of Mayor Klausing, Ms. Kelsey reviewed how calculations for interest rates had been determined and how it related to individual homeowners' ability to seek individual mortgages. Ms. Kelsey advised that staff was not proposing to bond for this project; as it would add several thousand more dollars to the cost of the project. Ms. Kelsey advised that a financing proposal had come from a direct buyer, Bremer Bank, who would be making the loan to the City of Roseville, based on the assessments as security to pay back the loan. Ms. Kelsey noted that this was an open-market type loan with the bank, and not a mortgage, at the going rate of 6.75% of interest, in addition to the 1.5% fee for the City to administer the loan. Ms. Kelsey advised that if homeowners were able to pay off this loan, and get a home mortgage loan, they could pay the assessment fee and have a lower interest rate; whatever was negotiated on their individual homes. Ms. Kelsey further advised that, if the City did not administer this loan over a fifteen-year term, the association could assess the property on their own.

Councilmember Ihlan opined that it fell to owners unable to finance their portion of the project other than through an assessment, at more than the market is charg-

ing, and would be borne by those unable to pay upfront or those who were unable to find alternative financing. Councilmember Ihlan reiterated her concern that in an attempt to preserve housing in the City, the City was raising homeowner costs and making them homeless; and opined that sufficient analysis had not been done to determine whether there will be undue hardships for homeowners, causing her to rethink her previous vote creating this mechanism.

Finance Director Miller clarified that the City would have ongoing costs to incur these assessment roles; and that there would be no administrative costs for those assessing over a fifteen-year period, once the City's administrative burden was gone.

Mayor Klausing opined that individual Councilmembers could vote their conscience; however, it appeared that the Council majority was supportive of the HIA as a funding mechanism; and suggested that Councilmember Ihlan better clarify her issues by a motion.

Ihlan moved that the City Council formally reconsider the HIA ordinance and further discussion occur at a subsequent meeting; based on sufficient concerns raised as to whether this is an appropriate use of public monies and in the context of the whole community, should the City be involved in the project at all.

The Mayor declared the motion failed for lack of a second.

Councilmember Roe reviewed his interpretation of three calculation methods, via a bench handout, providing graphical representations based on assessment per the Declaration; by value; and by square footage, based on information in Exhibit E of the staff report for assessment costs for individual units and common areas, with cost allocations and the 20% contingency. Councilmember Roe opined that, following his analysis and public testimony, he may consider a value-based assessment, but was more amenable to assessment based on the Declaration as recommended.

Councilmember Ihlan referenced Attachment G of the detailing assessment cost calculations for value and square footage of units; read the applicable State Statute for City Council authority to impose fees; and opined that the fees should be imposed on the basis of the tax capacity of the housing unit, based on the Ramsey County assessed value. Councilmember Ihlan further opined that the proposed assessment calculations were unfair and were unfair to some of the smaller units; and that the City Council should not rely on the homeowner's association to determine fairness for the overall complex.

Mayor Klausing clarified with City Attorney Squires, with confirmation, that the City Council, per State Statute, had three options, including the Second Amended Declaration.

Mayor Klausing opined that, if the City Council were to consider assessments based on square footage in consideration of benefits to the property, with a project similar to that of the Roselawn project previously discussed, they would need to be based on the assessment rate on the size of the home, rather than on the square footage of the property. Mayor Klausing noted that the assessment was based on exterior improvements that were different per unit; and splitting the common areas by the 47 units.

Councilmember Ihlan opined the proposed method was arbitrary, was not specified by law.

Councilmember Roe opined that the projected cost allocations for common areas were fairly split among all residents, with assessments for individual units taken into consideration, thus showing the differentials in the smaller and larger units for their specific costs, plus a portion of the overall project cost.

Mayor Klausing opined his support for the recommended method, from his personal analysis, and based on the Second Amended Declarations as the fairest calculation for common unit areas. Mayor Klausing acknowledged the burden on property owners, particularly the smaller units; however, he noted the difficulties in quantifying the values for common areas, requiring some subjective judgment being brought to bear on the decision.

Roe moved, Pust seconded, adoption of Resolution No.10686 entitled, "A Resolution Imposing Improvement Fees in the Housing Improvement Area and Providing for the Collection of the Fees;" for improvements of the units within Westwood Village I per the Westwood Village I by-laws, inclusive of the two-page Attachment A entitled, "Assessment breakdown estimate for Westwood complex;" as amended with the addition of new Item No. 1 as follows, and renumbering of remaining items:

"The method of cost allocation shall be based on the Association Board's proposed allocation resulting from the Second Amended Declaration dated April 25, 2008; such methodology and cost allocation being more fully set forth in Attachment "A" to the resolution."

Councilmember Johnson expressed appreciation for the passion of Westwood Village I residents and the thought process involved from both sides of the issue and their compelling arguments. Councilmember Johnson recognized ongoing cost increases by further delaying the project; inability of some residents in the association in obtaining financing for the project other than through assessments; and expressed appreciation for the work done by the association, City staff, and the City Council to-date. In consideration of the lack of continuity in past governing documents, and the clarification provided in the new governing documents,

Councilmember Johnson spoke in support of the new proposal by staff as the most fair and equitable for all homeowners in the complex.

Councilmember Ihlan reiterated her previous comments related to this project being subject to public, City-based open bidding; opining that she was not convinced that the best bids had been received; and appearances that the government was forcing property owners to accept this bid.

Ihlan moved to make the motion contingent upon this project being re-bid by the City, with the thought of receiving a better set of bids than previously received, given the number of interested and motivated contractors currently available; and that fees be assessed, based on this public bidding conducted by the City under municipal law for this project.

The Mayor declared the motion failed due to lack of a second.

Councilmember Ihlan opined that the proposed 20% contingency was too high; and if proposed for collection upfront, it was inappropriate, particularly when public monies were being used and assessments implemented. Councilmember Ihlan expressed concern that the party conducting the bids had spoken during public comment tonight in support of this project, rather than retaining neutrality in the process.

Councilmember Pust asked staff for a more detailed explanation of the use of the 20% contingency fee; and what would happen to that contingency if the project came in at budget.

Ms. Kelsey advised that, in this situation, once the existing siding was removed, it was uncertain what would be found underneath and what additional repair work would be required. Ms. Kelsey clarified that the Load-Bearing firm was not a contractor bidding on the project, but had served as a consultant to the association board, on behalf of residents, to determine the scope of the work, and prepare plans and specifications for bidding the project. Ms. Kelsey noted that this firm had been paid from available reserve funds of the association, in addition to the costs for a property manager, and processing costs for this proposed project. Ms. Kelsey advised that, as the association was unable to pay these costs upfront due to a lack of resources, third party audit costs were raised.

Ms. Kelsey clarified that, if the contingency was not needed, it would be refunded proportionately; with those needing to borrow funds, having their assessment amounts reduced accordingly as well. Ms. Kelsey further advised that no one was going to walk away with a 20% bump; and that those homeowners taking out home equity loans would have their loan amounts reduced accordingly.

Ms. Kelsey further noted that, if the City Council reached a decision tonight, the City would proceed to close on the loan and borrow the entire amount, with the City paying interest from the initial date of the loan; and homeowners given a thirty (30) day notice to pay off their assessments in full or have them applied to property taxes.

Councilmember Ihlan questioned why the City should pay interest for a loan, rather than using funds from City reserves to make it more cost-effective.

Mayor Klausing opined that the rationale for a public bidding process was to make sure the public received the best possible deal; and noted that the association itself had conducted this bid on behalf of those paying the costs; and that they were assuring that this was the lowest possible bid for this project at the time it was bid.

Councilmember Pust thanked all unit owners present, and for their three years of work put into the project. Councilmember Pust reviewed her thought process, which had changed through the process and in her service as a member of the City's HRA, and as a City Councilmember. Councilmember Pust advised that, when this proposed HIA plan first came to the HRA, she was the most vocal at that level in her lack of support for the proposal; questioning why the City should serve as a bank for homeowners, or others in the City who wanted to make improvements to their property.

Councilmember Pust advised that now, however, both from a perspective of the HRA and City Council, and on behalf of the citizens of Roseville, residents cared about their housing stock, wants its housing stock to be kept up, and noted the number of complaints fielded by staff on ongoing code enforcement non-compliance issues. Councilmember Pust noted that it was repeatedly heard from neighbors that these issues were impacting their property values, and they continually sought help from the City.

Councilmember Pust opined, therefore, that the rest of the City of Roseville had a problem, and it was Westwood Village I; opining that if the complex continues to deteriorate, it adversely affects the rest of the community and the way the community was perceived by its residents, visitors, and businesses.

Councilmember Pust opined that all of us had a piece of this community, and therefore, it seemed that there is a use for public funds to be used for this project, as it provided a clear public benefit. Councilmember Pust clarified that, in supporting the project, it wasn't about Westwood Village, and it was about the rest of the community not wanting them to become an ugly eyesore in our lovely community. Councilmember Pust spoke in support of the City Council approving the HIA, based on that rationale.

Councilmember Pust further stated that she didn't want to leave an impression with the homeowners that if she was giving them money, why shouldn't she give money to other people on other streets with similar needs. Councilmember Pust clarified that she was taking out the loan because the association and its homeowners didn't have security for a loan; and in passing this loan onto homeowners, she was going to tax them to see a return on that investment, since it was not her money, but the public's money. Councilmember Pust, based on receiving a return on the investment, and given the public benefit, spoke in support of the project.

Councilmember Pust addressed the cost allocation and how to determine fairness for all parties; opining that, when homeowners chose to buy into this type of community living situation, they knew they would be required to make joint decisions in a fair and responsible manner within that community. Councilmember Pust asked that homeowners seriously consider their responsibility within that community in the most fair-minded manner. Councilmember Pust noted that homeowners had met and determined that their historical way of doing things needed a better plan to consider small unit owners, and that 1/47 was not fair; thus creating the current proposal and cost allocation. Councilmember Pust opined that this was evidence of a community trying to do what was fair; and was proof of the value of one vote in a democracy. Councilmember Pust noted that not everyone always got what they wanted, but they still got to express their opinion with that one vote; and spoke in support of the motion, based on the Second Amended Declaration.

Councilmember Ihlan reiterated and summarized her previously-expressed rationale for voting against the motion.

City Attorney Squires noted previous requirements that, at this stage, the HIA Statute contemplates that the Association would have provided a Capital Reserve Plan; and noted, for the record, that it had been provided and prepared by Reserve Data Analysis, Inc. as a bench handout.

Roll Call

Ayes: Roe; Johnson; Pust; and Klausing.

Nays: Ihlan.

Motion carried.

Mayor Klausing requested that residents keep in mind that the City Council did what they felt was in the best interest of and most fair to the community.

Recess

Mayor Klausing recessed the meeting at 9:02 p.m. and reconvened at 9:14 p.m.

- c. Approve the Transfer of the Off-Sale Liquor License held by Cellars Wines & Spirits Roseville II to Roundy's (Rainbow Foods)**

Finance Director Chris Miller noted due diligence performed by staff and detailed in the staff report, including land use and background information research.

Councilmember Ihlan clarified that this action did not create any additional liquor licenses; and was a private business venture.

Mr. Miller responded affirmatively.

City Attorney Squires suggested that the motion for transfer be made contingent upon successful completion of the transaction.

Councilmember Roe spoke in support of the proposed action, based on that amendment.

Klausing moved, Ihlan seconded, approval of the transfer of the Off-Sale Liquor License currently held by Cellars Wine & Spirits of Roseville II to Roundy's (Rainbow Foods), effective March 2, 2009; amended to make the transfer contingent upon the successful completion of the parties affecting the transfer transaction between them.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.
Nays: None.

d. Adopt a Resolution Granting Preliminary Approval of the 2030 Comprehensive Plan

Mr. Trudgeon briefly commented on comments received from adjacent jurisdictions and Watershed Districts, included as Attachment D to the packet materials, in addition to the staff summary table of those comments and subsequent actions in Attachment E as applicable.

Mr. Trudgeon advised that the preliminary Plan had been submitted to the Metropolitan Council to begin their technical review; with significant comments received and incorporated as needed; with some outside the scope and included in the summary table by staff as well.

Mr. Trudgeon noted the requested Council action; with Economic Development Associate Jamie Radel providing a revised ordinance, with minor language corrections.

Roe moved, Pust seconded, adoption of Resolution No. 10687 entitled, "Preliminary Approval of the City of Roseville 2030 Comprehensive Plan;" authorizing submittal of the Plan to the Metropolitan Council; amended to change "decentennial" in the 2nd "whereas" clause to "decennial," and to change "subsequent" in the "be it resolved" clause to "subject."

Councilmember Ihlan spoke to the land use process; and process of the Comprehensive Plan Update; and expressed concern with the current draft with respect to those land use categories, specifically retail and the removal of the square footage guidelines to avoid big box retail development in the Twin Lakes area; and if such development were to occur, that it be contained in the Rosedale area, where impacts to residential housing would be less pronounced. Councilmember Ihlan alleged that removal of the square footage guidelines had been prompted by input from Roseville Properties, and based on their development interest in pushing for big box retail development in the Twin Lakes area.

Councilmember Ihlan referenced three additions she had included in the staff report materials related to vacancies in retail boxes; and excerpts from the new drafts of the City of Bloomington and City of Edina Comprehensive Plans related to general business and commercial and their specific square footage guidelines. Councilmember Ihlan opined that the City of Roseville had missed the opportunity to better control retail and large businesses from specific zones with this proposed draft Plan.

Ihlan moved to reinstate the land use categories for community, retail and business designations, reverting to the language before the public prior to August of 2008.

The Mayor declared the motion failed for lack of a second.

Public Comment

Gary Grefenberg, 91 Mid Oaks Lane

Mr. Grefenberg spoke in support of the City Council submitting the preliminary document to the Metropolitan Council. Mr. Grefenberg opined that, while it was not a perfect document, it plowed through some new ground and provided for substantial community support, and was a good document. Mr. Grefenberg congratulated those who had worked with him on the Steering Committee, including participating Councilmembers, and opined that the document responded to most of the issues before the City of Roseville, and should prove useful over the next 10 years.

Mayor Klausing thanked Mr. Grefenberg for his service on the Steering Committee.

Councilmember Ihlan addressed those issues raised by other jurisdictions, specifically referencing those of Little Canada and the Watershed Districts related to stormwater treatment and surface water management as it related to other communities to enhance neighborhood and community resources. Councilmember Ihlan opined that more specific implementation strategies needed to be addressed. Councilmember Ihlan further opined that the City of St. Paul included comments

addressing inconsistencies in various sections of the Housing Policy Chapter; and that resolution should be sought to ensure community involvement as the City's guiding philosophy of the Plan.

Mr. Trudgeon advised that the plan was meant to be general, and that it was intentional that specific responses were not provided for those comments; but that it was the intent of the Steering Committee to use the referenced materials (i.e., stormwater management plan, and master plans for parks) as secondary planning processes outside the Comprehensive Plan. Mr. Trudgeon advised that this would be part of the work plan before the Public Works staff.

Councilmember Johnson observed that this would be similar to the Master Planning for parks.

Mr. Trudgeon noted that work still needed to continue with neighborhood planning and involvement as policies and procedures are implemented; and opined that the Plan is only a benchmark, and now there was much work to be completed, specifically to the City's zoning code; in addition to policies and procedures as applicable; with the City Council engaged on how to address each of those issues.

Councilmember Ihlan noted that there was no discussion as to whether the Master Plans would be included in this draft going forward; and opined that the draft should not proceed until the City Council took that step; and noted the significant difference in the previous plan and this proposed plan.

Councilmember Roe opined that, in his review of comments from the City of St. Paul regarding housing, he found the two policies to be complimentary; and noted that the implementation chapter specifically addressed how Master Plans and the Stormwater Plan would be handled. Councilmember Roe opined that it was time to move forward.

Roll Call

Ayes: Roe; Johnson; Pust; and Klausing.

Nays: Ihlan.

Motion carried.

- e. **Adopt a Resolution Approving an Interim Use Permit (IUP) for Joel McCarty (property owner) and Cent Ventures 2, for a portion of the property at 2750 Cleveland Avenue, based on the comments in Section 6 and the Conditions of Section 7 of the Project Report dated January 26, 2009**

Mr. Trudgeon highlighted the Request for Council Action dated January 26, 2009 for an Interim Use Permit (IUP) to allow storage of semi-truck trailers on the remaining portion of the Old Dominion parcel in accordance with City Code, Section 1012.09 (Interim Uses).

Mr. Trudgeon advised that the IUP request is prompted by current economic challenges; and that, although Cent Ventures is in a contractual agreement with Old Dominion to purchase the parcel, the current tight credit market and recession have delayed potential redevelopment of property.

Mr. Trudgeon advised that at the informational meeting held by the applicant in December, as well as at the Planning Commission Hearing held in January, no one from the public had come forward to speak.

Mr. Trudgeon noted detailed comments of the Development Review Committee (DRC) related to this request. Mr. Trudgeon advised that while the applicant had originally requested a five year IUP, staff had recommended two years; with the Planning Commission recommending three years, recognizing limitations on a portion of the lot during construction of the Metropolitan Council's Park and Ride facility and construction easements. Mr. Trudgeon advised that Cent Ventures reaffirmed their desire for a five year IUP term; however, he noted the recommendations of approval from the Planning Commission as detailed in Section 7.6 of the staff report.

Applicants:

Jim Walston, on behalf of Old Dominion and John Livingston, on behalf of Cent Ventures 2

Mr. Walston summarized the current credit market on which the practical request of five years was based; and difficulties for developers in securing funding, in addition to construction during 2009 of the Park and Ride facility.

At the request of Councilmember Pust, Mr. Walston confirmed that it was the intent of the applicant to store shipping containers and trailers on this property in the northeast corner; with the Metropolitan Council securing, through condemnation, a construction easement to facilitate construction of their facility on a portion of the site.

Councilmember Pust sought clarification, and Mr. Walston affirmed, that they would be receiving money for the portion of the parcel used for the Park and Ride facility; and were also requesting an IUP to store trailers and cargo containers for a period of five years.

Mr. Walston noted that Mr. Livingston was attempting to develop other parcels for businesses allowed in the area; however, he needed to come up with financing for that redevelopment.

Councilmember Pust clarified that the applicant sought to make it easier to come up with the money by the City making it possible to store trailers and cargo containers for additional revenue.

Mr. Livingston re-emphasized the request and rationale for a five year term for the IUP due to the slow process in resolving title issues and discrepancies for this parcel, prohibiting his finalizing the loan last year, and now faced with a severely-eroded credit market. Mr. Livingston advised that one of the stipulations of lenders in his obtaining a loan when those markets loosen up for redevelopment, is that the current use remain in place for a number of years to provide revenue for the site. Mr. Livingston noted the mechanics of the site due to construction of the Park and Ride facility; as well as delays by the City in delivering infrastructure improvements, and Mount Ridge Road construction, causing the Park and Ride facility to rely on the Old Dominion site for access. Mr. Livingston noted that this was further complicated with the condition placed on the site by staff that no portion of the site could be paved.

Mr. Livingston indicated that he had worked with staff and City Attorney Squires on a mutually agreed-upon solution that would be most beneficial to all parties, which he opined was proactive. Mr. Livingston expressed his willingness to work with the Rice Creek Watershed District on their stormwater requirements to pave a spot where the building was torn down, which would allow Metropolitan Council to drive across to load and unload passengers. Mr. Livingston expressed concern with the condition stating "if any" related to paving. Mr. Livingston assured Councilmembers that best practices for stormwater management would be adhered to, and could be addressed on a development plan when it came forward.. Mr. Livingston advised that it was his intent to clarify expectations

Discussion included the applicant meeting the expectations of both the City and Rice Creek Watershed District; subsequent agreements for any additional modifications and/or redevelopment; representation and sign-off by the City's engineering staff and the applicant meeting the City's requirement if they were to pave the lot; the temporary nature of the construction easement held by the Metropolitan Council; and whether the start of the three year period should tie into the finish of the construction easement.

Further discussion included value of the property in the condemnation process depending on the site use and viable business;

Mr. Livingston clarified that he had an obligation under contract to purchase the property; however, he was unable to get financing until he was able to prove revenue off site and until he could bring development to the site. Mr. Livingston advised that he was not interested in discussions with potential developers until he received assurances and a date-certain of infrastructure commitments and/or construction for Mount Ridge Road and Twin Lakes Parkway.

Mr. Livingston assured Councilmembers that his intent was for trailer and storage containers on the site, not trucks, due to potential hazardous waste (i.e., fuel) con-

cerns, and consistent with current uses in the area, and interested parties he'd spoken to.

Councilmember Pust questioned the public benefit in the City allowing storage of containers on the site when it was the community's vision to remove such unsightly storage from the area entirely. Councilmember Pust spoke in opposition to the request, particularly since it was to benefit a private business owner. Councilmember Pust recognized that the economy was challenging for many people, and that they may seek similar allowances from the City Council. Councilmember Pust opined that she saw no reason to allow the IUP for any amount of time, and expressed surprise that the City Council was seriously considering the request.

Ihlan moved, Pust seconded, DENIAL of the Interim Use Permit request for Joel McCarty and Cent Ventures 2, for a portion of the property at 2750 Cleveland Avenue (PF09-001);" based on the following findings:

- 1) the proposed use is prohibited under current ordinance;
- 2) the proposed use is inconsistent with adjacent properties;
- 3) the proposed use represents a potential negative impact on the Park and Ride facility being constructed adjacent to this property;
- 4) the propose use creates a negative environment to the City's ability to obtain grants for this area; and
- 5) the proposed use is contrary to the City's vision and plans for general uses in this area; as well as those uses proposed in the City's new Comprehensive Plan.

Councilmember Ihlan spoke in support of the motion to deny, noting that the requested use was prohibited, and that the neighbors in that area didn't want this use. Councilmember Ihlan acknowledged that development needed to move forward, with the City needing to concentrate on getting that infrastructure built and in place to foster that redevelopment and make the Twin Lakes area attractive to developers. Councilmember Ihlan opined that approving the IUP request would undermine the City's ability to apply for grants for the property and surrounding sites; and expressed concern that those using the Park and Ride facility would be interested in looking at a field of containers. Councilmember Ihlan further opined that this request was not in the public's best interest.

Mayor Klausing opined that he didn't want to see truck storage as a long-term solution; however, he wasn't sure he wanted to speak against motion, given the unanimous recommendation of the Planning Commission.

Councilmember Pust noted that the City Council normally supported recommendations of the Planning Commission, but had deviated in the past as well, based on the convictions of City Councilmembers.

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Klausing moved, Johnson seconded, suspension of the City Council's Rules of Procedure to extend the meeting until 10:15 p.m. to complete discussion of this item; and determine those remaining agenda items of a time-sensitive nature and requiring action tonight. Mayor Klausing requested that City Manager Malinen review language of the Council Rules related to extending meetings for discussion of time-sensitive issues after the self-imposed curfew.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausing.

Nays: None.

Councilmember Roe opined that an IUP was the best way to regulate use of the site, with the conditions imposed, limited time, approval of any paving based on stormwater management needs, and no stacking of containers. Councilmember Roe advised that the site had no such regulations at this time. Councilmember Roe further opined that, while he wasn't thrilled about it, in the short-term and in these circumstances, he could support it.

Mr. Trudgeon noted that, while there was currently some truck storage on the site, there was a wide range of opinion as to their rights for that use, with the owner asserting that they have grandfathered rights to store them on site.

Councilmember Pust noted that the City also had an opinion of an opposing nature, that the applicant failed to accede to, but was appearing before the City Council seeking yet more concessions.

Mr. Trudgeon, on behalf of staff, opined that they felt strongly that the use was not allowed; with the applicant proffering the opinion that they didn't lose their rights for previous, non-conforming uses with the property's condemnation. Mr. Trudgeon advised that, at least with the IUP, the City could regulate the uses and terms for that use, putting the City in a stronger position during that time to ensure that the applicant adhered to the conditions of the IUP and specific use, rather than the rather ambiguous current situation. Mr. Trudgeon advised that was staff's interpretation that the previous non-conforming use had been suspended by the applicant for a minimum period of two years, based on aerial photographs in 2006 and general observations.

Roll Call

Ayes: Johnson, Pust; and Ihlan (Denial)

Nays: Roe; Klausing

Motion carried

- f. **Approve a Four (4)-Year Lease Extension for the Roseville License Center**
Due to time constraints, and at the request of a majority of Councilmembers to provide sufficient time for sufficient discussion, this item was held over for a future meeting.

g. Consider Additional Date for Interviewing Candidates for Reappointment to Advisory Commissions.

Councilmember Roe addressed the City Council's policy for advisory commissions, in potentially taking action on reappointments earlier in the process. Councilmember Roe suggested, given the number of interviews required on March 9, that the City Council interview eligible re-appointees on February 9; and take action on those reappointments between February and March interview dates.

Roe moved, Pust seconded, directing staff to schedule interviews on February 9, 2009, for eligible incumbents for reappointment to respective advisory boards.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausung.

Nays: None.

13. Business Items – Presentations/Discussions

a. Discuss an Alternative Budgeting Process for 2010

Due to time constraints, this item was held over for a future meeting.

b. Discuss and Call the City Council Strategic Planning Meeting

Klausung moved, Pust seconded, calling a special meeting of the Roseville City Council for Saturday, February 7, 2009, from 9:30 a.m. to 1:30 p.m., for the purpose of discussing strategic planning; directing staff to hire a facilitator to assist with the strategic planning; with the goal of prioritizing issues, planning for the future, and building cooperative relationships between the City Council and staff, and among City Councilmembers; and directing staff to post and publish the meeting in accordance with State Statute; and to be broadcast live or via tape delay, based on the cost to be determined by staff.

Councilmember Ihlan questioned the cost of the facilitator with City Manager Malinen estimated previous services at approximately \$500.00.

Councilmember Ihlan opined that there was no need for a facilitator at this type of meeting; however, she noted a past history and lack of majority consensus among Councilmembers with that opinion.

Discussion was held regarding the need for live broadcast, or tape delay via video; with City Manager Malinen directed to make a determination, based on Rule 8 of the Council Procedures and Rules, based on cost considerations and availability of staff.

Roll Call

Ayes: Roe; Johnson; Pust; Ihlan; and Klausung.

Nays: None.

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- c. **Discuss a Neighborhood and Diversity Commission**
Due to time constraints, this item was held over to a future meeting.

14. City Manager Future Agenda Review

15. Councilmember-Initiated Items for Future Meetings

- a. Councilmember Ihlan requested an update of the Housing Preservation Project, specifically related to the status of Centennial Apartments issues; and discussion and consideration by the City Council of payment of a penalty or fine for previous violations of rent rules.

16. Adjourn

The meeting was adjourned at 10:17 p.m.

Craig D. Klausung, Mayor

ATTEST:

William J. Malinen, City Manager