

**North Oaks City Council
Meeting Minutes
North Oaks City Council Chambers
April 9, 2020**

CALL TO ORDER

Mayor Nelson called the meeting of April 9, 2020, to order at 7:00 p.m.

ROLL CALL

City Councilmembers participated **by telephone or other electronic means** pursuant to Minn. Stat. § 13D.021. Residents can view the meeting on our cable access channel and through the website portal just like other public meetings.

Present: Mayor Gregg Nelson. Councilmembers Kara Ries, Rick Kingston, Martin Long, and Katy Ross.

Staff Present: Administrator Kevin Kress, City Attorney Bridget McCauley Nason, Administrative Assistant Debbie Breen.

Others Present: Videographer – Maureen Anderson.

A quorum was declared present.

APPROVAL OF AGENDA

MOTION by Kingston, seconded by Long, to approve the agenda as submitted. Motion carried unanimously by roll call.

CONSENT AGENDA

Councilmember Kingston requested the removal of item 4b, Approval of Minutes from March 12, 2020 City Council Meeting, to New Business.

MOTION by Kingston, seconded by Long, to approve the following Consent Agenda items as amended to remove item 4b for consideration as item 7b:

- a. Licenses for approval: Massmann Geothermal
Checks for approval: #013506–013538
- ~~b. Approval of Minutes from March 12, 2020 City Council Meeting~~ (considered as item 7b)
- c. Approval of Minutes from the March 19, 2020 Emergency City Council Meeting

Motion carried unanimously by roll call.

PETITIONS, REQUESTS & COMMUNICATIONS

a. Deputy Mike Burrell Report

Deputy Burrell said a lot has changed in the last month and it has been a big change to the Sheriff's office. They are dealing with COVID-19 so they have been responding to calls differently, even medicals. Everyone has taken a big step back as far as some of the productivity to make sure everyone stays healthy. He knows citizens want things handled. Two things have happened due to the virus. First, there have been a lot more people out and about, especially on trails and walking paths, including nonresidents. He has been in contact with Councilmember

Ross and NOHOA in regard to that. Recently there were about 30 motorcyclists going through North Oaks without any valid reason to be in the City, resulting in a trespassing ticket. He has also been dealing with numerous fishing complaints.

Councilmember Long asked Deputy Burrell to give an update on the conversation they had with Administrator Kress about fishing, and an idea about the beach and pumphouse. Administrator Kress came up with a policy, and with Mayor Nelson's approval, they will meet to address that issue and the parking issue.

Deputy Burrell stated the City and NOHOA need to discuss the issues as far as how they will be handled. It has always been a big issue as far as how trespassing should be handled. He said fishing is a violation of a DNR order. The lakes are closed per the DNR, and he writes tickets for fishing on a closed lake. A lot of times, high school kids from North Oaks and other areas are caught fishing. They are often juveniles, and the process is different than it is for adults. With juveniles, he generally takes the individual's fishing equipment, makes Dad come to pick it up, and gives them a warning if it's their first time. They usually do not repeat the offense; but if they do, they get a ticket. He is open for discussion if the City feels there is a different way to handle it. As far as the parking issue, if there is a better way to handle the lots used by trespassing nonresidents, the City should let him know. He has given a half dozen or so tickets to trespassing vehicles the last few weeks.

Councilmember Long asked Deputy Burrell to share the incident with 2 women who claimed to be former residents and said they should be allowed to continue to use the community facilities.

Deputy Burrell said he came across a couple of people who had NOHOA stickers. When he observed their plates, he noted they were from White Bear Township and Vadnais Heights. When he asked if they were residents, they admitted they were not but felt they should still be allowed to use the trails, since one was a former resident. He thought it had been quite a few years since she was a resident.

Councilmember Long said he and Administrator Kress had a discussion with Mikeya Griffin and some good things came out of it. With the pandemic, the lots are full of cars, and he does not think the City should use the Sheriff's/Deputy Burrell's time, as there are more important things for them to do. He stated Administrator Kress had an idea that some NOHOA Board members, among others, could hand out a flyer of sorts when people are there.

Administrator Kress stated they talked about having a short piece of paper asking people's name, address, what they are doing in the City, and, if they are a visitor, who they are with. He checked with Mikeya Griffin, and it sounds like they have a form similar to that. He suggested that when people enter parking lots, they fill out the form and put it on the vehicle's dash to make it easy for Deputy Burrell to tell if they are supposed to be there or not. If they do not have the form, they could be ticketed. They also discussed having a security subcommittee to have a deeper discussion with NOHOA on how to secure the City more appropriately.

Councilmember Long said they would need Mayor-sponsor for that but he would be willing to do that. He would recommend the group meet with Mikeya Griffin, Administrator Kress, Deputy Burrell, Tim Boehlke from the Fire Department, and maybe a NOHOA Board member.

Councilmember Ross stated she thinks she should be involved in the meeting because she is working with Deputy Burrell.

Councilmember Long agreed with Councilmember Ross.

Councilmember Ries suggested including Mark Ash from NOHOA since he is on their Security.

Councilmember Long stated he would not support the suggestion of Mr. Ash being on the committee, noting he has done some things that are not consistent with the Sheriff's Department.

Mayor Nelson suggested to Administrator Kress that they come up with the balance of the committee after the meeting unless it needed to be decided during the meeting.

Administrator Kress suggested making a motion with a second regarding who the Council wants on the subcommittee. He does not know if the Council will have a lot of control over who NOHOA places on the subcommittee, although the Council could suggest who they want on it and refuse to meet if they choose Mr. Ash.

MOTION by Long, seconded by Ross, to establish a subcommittee for a meeting to deal with trespassing, fishing, and related issues.

Councilmember Ries asked if this would be a permanent subcommittee or just when there is a Governor's order in place for the pandemic.

Mayor Nelson stated he viewed it as a very temporary committee, but it might involve some discussion of long-term planning for trespassing issues.

Councilmember Ries said she just wants to be clear on what they are voting for.

Motion carried unanimously by roll call.

Deputy Burrell noted road restrictions are still in effect. He was told they will go down on Monday. With COVID-19, they have had a lesser approach to doing things like traffic stops. Their deputies have flagged vehicles down. He only knows of 3 overweight trucks that have been ticketed.

UNFINISHED BUSINESS

a. Discussion on Citizen United Petition and consideration of Resolution 1380

Administrator Kress presented the Council Action Request included in the packet.

Mayor Nelson said a number of people have been making their wishes known via email and also people are indicating their approval/disapproval of the Petition. The percentage ratio is 91:9.

Councilmember Kingston said the Polco survey indicates it is 10:1. He noted when the issue first started, they came with a few people that asked the Council to consider it. The Council sent it back and said they needed to see more citizen representation. He was chairing the meeting and suggested they would need to have at least 100 names. They came back with over 200 names, addresses, and contact information. The Council decided to use a Polco survey to make sure that people who may not be in favor of it also had a chance to weigh in.

Mayor Nelson asked if the Petition was presented and the City Council has actually seen the Petition.

Administrator Kress stated it was hand-delivered to him at the City offices in about December.

Councilmember Long asked if it was fairly presented so it was not biased for one or the other and asked how it was done.

Administrator Kress said he did not create the Petition; the language is very similar to what is included in the Resolution. It was up to the person to decide if they agreed with what is in the Resolution, in particular the last 2 points. There were more supporting details within the Petition, but generally the question is, "Do you support this or not?"

Mayor Nelson noted it was a national movement to invalidate or abrogate the Citizens United decision. He commented that he actually thinks it is sort of funny. He said the Citizens United decision essentially held that corporations are natural persons -- of course, only a lawyer could come to that conclusion after manipulating the facts and law to such a degree that you can end up with corporations being natural persons -- even though everyone knows a natural person is not a corporation. In the United States Supreme Court, you do not have to be a lawyer, although there has not been a non-lawyer on the Supreme Court for many generations and maybe it is time to get somebody in that has some common sense.

Councilmember Long asked if this is something the City should participate in.

Mayor Nelson stated it is a grassroots movement that is trying to get municipalities and states and counties to support it. There are a number of Minnesota counties that have already given support, as well as cities, and about 20 states that have indicated their approval.

MOTION by Long, seconded by Kingston, to approve Resolution 1380, Supporting a United States Constitutional Amendment to Regulate Corporate Political Spending and Campaign Financing, as outlined in the Council Action Request.

Mayor Nelson stated he talked to the Mayors of other cities, and he is not aware of the Resolution currently being in front of any of the neighboring cities.

Councilmember Ries asked Administrator Kress if he was able to talk to other cities and find out what cities that are in favor of this are doing to support such a resolution, or other activity they were doing.

Administrator Kress said there was not any indication of anything additional other than the presented resolutions. Minneapolis, New Brighton, Sherburne County, and some others have been involved. It was a mixture of approval or the choice to not entertain at all.

Mayor Nelson noted New Brighton has already approved it.

Motion carried unanimously by roll call.

NEW BUSINESS

a. Discussion of Public Hearing Options

Administrator Kress said City Staff wanted to have a discussion about options available for public hearings. He indicated it will be very challenging to go through the process of hosting a public hearing. There are 2 for next week which were scheduled in advance of COVID-19 hitting the United States. City Attorney Nason, himself, and other consultants have been working through different ways to facilitate that. He stated City Attorney Nason would give further detail on some ways to accommodate and also concerns and possible roadblocks.

City Attorney Nason said she attended a League of Minnesota Cities-sponsored City Attorney round-table discussion regarding COVID-19, and public hearings was one of the major issues discussed. There are 2 avenues pursued: first is some potential legislation the League is seeking which would extend out the 60-day/120-day deadlines found in the statutes to try and give cities some breathing room. She noted some cities were at the end of those deadlines and scrambling to provide a meaningful opportunity for a public hearing, especially the cities that do not have the same technological capabilities as others. Pending a legislative change, the City is obligated to comply with the deadlines established by state statute for land use-related/subdivision applications. There is a Planning Commission public hearing scheduled on the Nord and Anderson Woods applications. The City provided the required notice by statute and City Code in the paper. The City provided an opportunity for individuals who wished to provide comments in advance of that meeting to Administrator Kress. They are exploring other options -- but haven't been able to finalize it -- such as the ability to record a 3-minute message or 3-minute video to be played during the public hearing. She does not know how any of the public hearings will go; it will probably depend on technology. She said the Planning Commission might have some thoughts about how the hearing goes and if they want to continue the hearings to allow for potential in-person comments. Alternatively, there is the second option, which is to approach an applicant and ask if they would be willing to extend out deadlines to facilitate in-person public

hearings. Everyone is in shelter-in-place until May 4, and it is realistic to assume Council meetings might not resume in-person until sometime after the middle of May or June. She does not have any great intelligence on the issue. It is an evolving situation, and no one knows what the timeframe looks like for when some of the social-distancing regulations might be revised.

Administrator Kress stated the challenging part will be, when the Stay-at-Home Order has been lifted, Staff does not know when in-person meetings will be allowed because there will still be the challenge of keeping 6 feet apart, etc. He noted it will not be over even when the order is lifted. He asked for feedback on whether or not the City wants to ask for an extension from the Company, how the process should go the following Tuesday and Wednesday in order to give some feedback to the Planning Commission, and generally what the Council wants to see as a process.

Mayor Nelson said the cable TV facility is very capable and the City may be a little ahead of the curve as far as dealing with technology. Continuity of local government is the essence of what the Council's job is; it is not to delay things but it is to figure out ways to move things forward.

Councilmember Ries said the City is using a Zoom platform and a lot of technical advisors and computer people consider it malware, as it is subject to hacking and people getting personal information off of the computers. Until the City tightens up some security measures, she does not think it is the safest platform and said it may discourage members of the public to enter into the meetings. CTV is working to tighten up a lot of the measures/security protocols. She does not know if it is safe at this point to have the public hearings.

Mayor Nelson stated Zoom came out with a new version and made several security enhancements, although he was not an expert and would have the City's cable people address it.

Councilmember Ries agreed some enhancements were made but there have still been a lot of hacking issues, data acquisition, and Zoom bombing. Zoom and CTV are working on it while they are live-streaming meetings, but it is still a major concern. She also indicated it is a health crisis issue. A lot of people in the community are taking care of loved ones or working extra shifts at hospitals/clinics to take care of people; and because of the health crisis, people do not have access to child care or other support they might need in order to attend a public meeting. She is concerned that things are being pushed forward. She noted in the order Governor Walz signed in March, he stated that cities should prioritize what they are working on and focus on health, safety, and the general welfare of people. The hearing is not considered to be some of the critical industries mentioned by Governor Walz. The City is also not prioritizing what they are doing. The City should focus more on its residents and make their health, welfare, and safety a priority. She thinks it would be prudent to ask for an extension and work with the League to extend out the deadlines so the City is not put into a position where they have to approve something they have not taken the necessary steps to review.

Councilmember Long said he is keeping in mind the Council's next meeting is 30 days from now and the Council will know a lot more then. He noted everyone is kind of on a sabbatical right now and there will be normal business again, but maybe it is an opportunity for the City to keep things moving again because of the prediction of a recurrence in November. These are scary times, but the City still has business to perform. He will count on the City Attorney, Administrator, and League to guide North Oaks.

Councilmember Ries mentioned that Minneapolis has extended some of their hearings out to May 20 and are only doing town halls. St. Paul has also paused some of their scheduled hearings. Since there are a lot of unknowns, a lot of cities are deferring to a future date or waiting to see what happens, which might be a prudent way for North Oaks to go as well.

Mayor Nelson stated there are things that can be delayed and also things that cannot be delayed until the legislature acts/fails to act on the issue. Until that time, the City has to keep things moving so the City does not end up in a situation where it is approved by default, which he assumed would upset Councilmember Ries quite a bit. By doing what they are doing, the City is maintaining control over the approval process. If the City stops the approval process on its own unilaterally, it does not stop the process; it just means the City is not acting. He asked City Attorney Nason about the timeline.

City Attorney Nason said she believes the City has until June 23, which would be the 120-day deadline. The Planning Commission always has the option to continue the public hearings into May. The caution Staff would provide to the Planning Commission is that they need to provide more than sufficient time for the Council to act on the applications as well. There are potential concerns with respect to the Planning Commission hearings which need to be weighed against the Council having enough time to take action. When both bodies only meet once a month each, it creates some tensions with respect to timing issues. If there is any legislative change, she will communicate that to Administrator Kress, and the Council would probably find out about it quickly as well. She is not aware at this point of anything imminent from a legislative standpoint.

Mayor Nelson asked if it would be prudent to ask North Oaks Company (NOC) for a waiver of the time limitations.

City Attorney Nason stated the City could ask NOC. Without a legislative fix, if NOC does not agree in writing to extend the 120-day deadline past June 23, the City would want a specific date in mind, whether it is July 30, August 1, etc., for the Company. If they are not willing to entertain an extension, there is no legal avenue for the City to not take action within 120 days of receipt of the completed applications. Failure to do so results in automatic approval of the applications.

Mayor Nelson asked if there was a consensus within the City Council to request an extension of time with NOC.

Councilmember Ross stated it made sense and that it is worth a try.

Mayor Nelson asked City Attorney Nason if asking for a 30-day extension would be appropriate.

City Attorney Nason said a 30-day extension would be within the realm of a reasonable request. She indicated no one knows what the situation will look like in 30-60 days, but if the deadline was extended into July, hopefully meetings could occur in-person before that time.

Mayor Nelson stated the City needs to be reasonable, too. The Company has been waiting over a year to get the application through, and now there is COVID-19 to deal with.

Councilmember Kingston said he understands that if the City asks the Company, they could say no; and the City would still be held to the 120 days from the time the plans were submitted.

City Attorney Nason stated he was correct.

Councilmember Kingston asked whether anyone that has made an application has to automatically accept an extension if the legislature takes action, or if the cities have an opportunity to say that things are good to go and they will move forward.

City Attorney Nason said she has not seen the language of any proposed legislation so she does not know what is being contemplated. If there were no barriers to making a final decision, the City could move forward on any such application. She would assume, even if the legislature were to grant an extension, it would not require that anything take longer than the allotted timeframe but, instead, would give cities flexibility.

Councilmember Kingston asked what would happen in the meantime if the Council decided to ask the Company if they wanted to have an extension, as far as whether the City would go ahead with its public hearings.

City Attorney Nason stated the public hearings are noticed for the next Tuesday and Wednesday. She would anticipate that the public hearing would open and then be continued to a later date. For example, if the Company agreed to an extension, in theory the public hearings could be continued out to the end of May, leaving June and July open to go through the decision process by the Planning Commission and City. If NOC did not agree in writing, her recommendation to the Planning Commission would be to keep moving with the process to ensure that there is not a deadline issue for Council action.

Councilmember Kingston said it sounded like the City Council is coming up with multiple ways that people can voice their opinions; in addition, the application has been going on for 1½ years. He is not sure the Council will hear anything that they have not already heard. People can email, do video clips, and be on Zoom during the open meeting, and he suspected the Council could decide whether they would accept additional comments even after the scheduled public meeting.

He thinks the City Council should continue to move forward until they get information from either the Company or legislation comes out that gives some latitude to make some adjustment in the schedule. He feels the City Council needs to proceed because there is no agreement by the Company to have an extension.

Mayor Nelson noted last year the City Council ended up in a terrible situation where the Council did not have an adequate opportunity to evaluate a proposal because the Planning Commission got so far underwater on it. In the end, the Council had one meeting and about 20 minutes to address it. He does not want to see that happen again; he wants the City to move forward unless it is known that the proceedings can be delayed.

Councilmember Ries stated the City does not have the technical capabilities that are proven to hold an adequate public meeting.

Mayor Nelson told Councilmember Ries that is her opinion.

Councilmember Kingston and Mayor Nelson noted that the City Council is holding a meeting at the moment.

Councilmember Ries asked Councilmember Kingston and Mayor Nelson to mute their microphones.

Mayor Nelson said Councilmember Ries said what she said; he heard her.

Councilmember Ries stated the reason why they are taking steps to postpone some of their controversial issues is because they want to make sure the public hearings are competent and binding. She noted at this point with development, some of the platforms still need to be tested. May is right around the corner and a few weeks away, when the Governor will lift his Executive Order.

Mayor Nelson asked Councilmember Ries to stop talking because she was saying the same thing over and over.

Councilmember Ries called a point of personal privilege.

Mayor Nelson indicated there is no such thing, that Councilmember Ries was out of order and needed to stop talking.

Councilmember Ries stated she was not out of order.

Mayor Nelson asked City Attorney Nason to address the issue, because Councilmember Ries was out of order and she did not have a point of personal privilege to address unless she needed to use the restroom.

Councilmember Ries called a point of personal privilege and said Mayor Nelson was interrupting the train of thought. She noted other cities are prolonging things and setting deadlines, which she feels is the prudent thing to do. The City does not have a platform. If the Planning Commission and City Council goes forward and votes on something, it requires a public hearing which is a substantial risk. She thinks the City should talk to NOC because no one predicted the situation, it is not anyone's fault, it is a health pandemic, and the proper thing to do is to ask for an extension.

Mayor Nelson asked City Attorney Nason to address this issue, because Councilmember Ries was out of order.

City Attorney Nason, in regard to *Robert's Rules of Order*, said someone who is raising a point of order can interrupt a speaker on the floor. It is not a debatable, amendable, or seconded motion; and it is decided by the Chair. She stated she was not sure who raised the point of order first; it may have been Councilmember Ries. She was not sure that answered the question that she was asked.

Mayor Nelson said he thought Councilmember Ries was out of order and he raised it. She asked for a point of personal privilege which he thought would be used for going to the bathroom, which he felt was not appropriate unless she needed to go to the restroom.

Councilmember Ries stated it is used for when other people are interrupting.

Mayor Nelson stated the City has heard from Councilmember Ries at length and her concerns have been noted. He said the City is trying to establish a legal remedy going forward, and not anything less. The City can ask the Company for an extension, but the City Council must follow the law and that is what the City will do.

Councilmember Long stated there are some other cities doing this with serious deadlines. North Oaks has one developer and can get through this. These are unusual times and the City needs help, but the City should first ask the Company for a 30-day extension. The City has to have their act ready to go if the Company says no.

Mayor Nelson stated the City has to have their act ready to go in either direction: the City needs to continue working on establishing a legal way to have hearings via videoconference, and they will also ask the Company for a 30-day extension. The City will be ready to have hearings; it will not put things on hold and hope for the best.

MOTION by Long to direct Staff to contact the North Oaks Company and ask for a 30-day extension.

Councilmember Ries asked City Attorney Nason if she is recommending 30 or 60 days.

City Attorney Nason said she does not know and would defer to the Council. She mentioned the City could ask for 30 and then a subsequent extension if more time is necessary based on how the situation evolves.

Councilmember Ross seconded the motion. Motion carried unanimously by roll call.

Administrator Kress noted Staff would test out a couple of platforms the next day. He will see how next Tuesday and Wednesday work out. Staff is still a little unclear on how it will happen. He knows some cities that have tried to do public hearings have extended them; he does not believe there has been a full-blown public hearing that has taken place yet.

Mayor Nelson encouraged Staff to keep working on it.

b. Approval of Minutes from March 12, 2020 City Council Meeting

Councilmember Kingston said he noticed, when reviewing the minutes, there is more detail in some areas and less detail in others. He noted there is so much information that is coming out and a lot of people are interested in it, and he suggested re-entertaining the way that minutes are being collected. He recommended the City use verbatim transcription so people can see the entire conversations that took place. He said Administrator Kress and himself talked about the fact that other cities have instituted similar types of processes, where they have both verbatim and highlights of motions and votes. He stated that would be his suggestion on how to move forward. There was a lot of information, especially in the last set of minutes, that, unfortunately, got left out or maybe others wanted to see a little more detail in some areas and it wasn't there. He does not want to have the minutes rewritten but feels the City should entertain having full narratives available.

Mayor Nelson said he thinks there are 2 ways to do minutes: to record the motions and the results of the motions, or to have the minutes verbatim. The idea of summarizing minutes does not work; they are always somewhat inaccurate to someone's perspective. He also would like to see a verbatim transcript, although he would not mind a one-page summary which would indicate the motions made and results of the motions.

Councilmember Ross stated it has been talked about in the past, and she suggested the possibility of having both the verbatim record and a sheet at the beginning/end of the minutes to show the overall information.

Mayor Nelson agreed with Councilmember Ross and clarified the sheet would not contain anything except the motions made -- a brief summary, a document saying here's what happened at the City Council meeting as far as legal actions -- and the entire transcript would be appended as by reference. There would not be a summary of minutes, which he thinks is always confusing and never accurate.

Councilmember Ross stated she thinks that scenario makes sense.

Councilmember Kingston suggested doing a verbatim transcript for the March minutes. It was a longer meeting, and he thinks starting off with that would probably be best. He said Administrator Kress has been investigating some options on that, so it should not be that difficult to get it done, and the minutes can be approved at the next Council meeting.

Mayor Nelson asked if Administrator Kress had checked into the idea.

Administrator Kress stated he contacted some neighboring cities to see what they do regarding minutes. Only one city did them internally. The majority of cities next to North Oaks and outside the metro area are shopping them out and they are doing close to verbatim. He noted you have to be careful with that language because they will never be truly verbatim, but they will be very close. When he talked to Staff and their perspective initially about the subject, they did not go into a lot of detail on it because the Council had never had a discussion since he has been with the City. He said some of the advantages of shopping it out is that it puts less pressure on Staff; they no longer would have the responsibility to do the minutes. Also, there is no negative perspective that somebody is writing something in favor of one Councilmember or another. He reiterated the major reasons they are shopped out is the time-savings and the pressure it takes off Staff.

Mayor Nelson asked if Staff knew what it would cost and whether it was expensive.

Administrator Kress said he thought it would depend on who the City would go with. If he were to venture a guess, it would be anywhere from \$100 an hour and upwards. It really depends on what the Council wants to see. If the Council wants to shop it out and take the pressure off Staff, then there is no pointing of fingers that “this was in there,” or “this wasn’t in there,” which are common problems you see with minutes, because certain members want to see this language in there, or “I said this,” or “You said that.” That is eliminated when you shop it out; there is a third-party person who has no ties to the City communicating the minutes back to the Council. He noted there are still times the Council will make changes to the minutes, but it is usually to cut out some of the verbatim.

Mayor Nelson asked Administrator Kress/Staff whether he/Staff was willing to do the very short motion record, the one-page record of the meeting.

Administrator Kress said he thought that would be pretty simple. He understands the Council wants City Staff to shop out the March 13 minutes to a third party and basically do a verbatim transcript for consideration at the next Council meeting, and also a one-page summary of just the motions.

Mayor Nelson clarified it was March 12 rather than March 13, but otherwise yes.

MOTION by Long, seconded by Kingston, to approve shopping out for transcription of the March 12, 2020 meeting and also have Administrator Kress/Staff prepare a one-page summary of the actions taken. Motion carried unanimously by roll call.

Administrator Kress asked if the intention moving forward would be to shop out the minutes such as tonight's or how he could advise Staff moving forward so they are aware of the process.

Mayor Nelson said that is what he would like to see done. He asked if anyone had a problem with that. He noted if the City finds out it is unduly expensive it can be revisited, but he thinks they will find a way to do it.

Administrator Kress said he would like to see a separate motion indicating that as well.

MOTION by Long, seconded by Ross, to approve shopping out for transcription of this meeting and future meetings until such time that the City Council changes its mind, and also have Administrator Kress prepare a one-page summary of the actions taken. Motion carried unanimously by roll call.

Administrative Assistant Debbie Breen asked if she should stop typing or keep going just in case.

Mayor Nelson stated the Council would like to have a very brief summary, so her typing should be constrained to simply what motions were made by whom and what the result was. He thinks the City needs that, anyway. He asked if that was fair and noted he saw yeses on the screens.

COUNCILMEMBER REPORTS

Councilmember Kingston said he spent time in the last month, working with the Mayor and City office, reaching out to local businesses to see if there is anything the City could do to help and if they had any special needs. He thinks they really appreciated the City's interest in helping them. Of specific interest was Waverly Gardens and Brookdale, the other nursing home in North Oaks. At Waverly Gardens, they were running out of hand sanitizer. He was able to work with another North Oaks resident that had access to a large supply of hand sanitizer; they were manufacturing it. About 500 gallons were made available to Waverly Gardens, with enough to provide additional support to some other Presbyterian Homes. The Brookdale facility seemed to be doing fine on that front but were in need of masks, the same as Waverly Gardens. He stated the Mayor could bring people up-to-speed on that front. He said the Council needs to be sensitive to some challenges North Oaks' businesses are facing and do everything possible to let residents know what services are being offered, including carryout, and encouraged people to avail themselves of that and help businesses get through these difficult times. He stated the Tick Task Force Survey has come to an end, and the results will be tabulated and presented at upcoming meetings. He reminded everyone that tick season is upon us, especially with the recent temperatures. He also reminded everyone to use protective clothing, DEET, and other procedures that have been outlined with the Tick Task Force.

Councilmember Ries said everything is going according to plan with the cable company. The cable company, as with this meeting, is having to convert everything over. They are having to review everything from electronic documents, how those are done, to how meetings are filmed, reviewed, and everything in between. It has been a lot of work to make sure the cities are taken

care of. She stated that with a healthcare provider in her home, she wanted to thank the community for their outpouring of support for everything from making homemade masks to gathering N95 masks and bringing them to hospitals. It is very meaningful to her that people are going that extra step in the community to make sure they are taken care of. She thanked everyone for their efforts. She said the website is being redone and they are making sure it will be high-performance. Because of COVID-19 and everyone working remotely, being able to have functionality from remote access is very critical from the City's perspective. He said they are working with the first design for the website to make sure it functions, is easy to use, and has all of the features needed to support residents. She indicated Administrator Kress may add some features for emergency updates and announcements from the City. That way people are kept informed and residents are able to see in real-time what is happening with the City. She reminded everyone that with COVID-19 people are home; and since it is Earth Day on April 22, she encouraged everyone to get out and take a walk, walk a block, pick up garbage if possible and help keep the community great. She noted she did that with her daughter and it was great.

Councilmember Long stated it is the first time he has ever been at a City Council meeting in a hot tub. He said it has been weird but fun walking the trails every day and getting to see everyone. There have been a lot of complaints, but people are out walking, they are keeping their distance, and it is actually a nice thing. He noted they will have the DNR fishing again, probably within the next 2 months. Sheriff Fletcher will have the Ramsey County boat out which will be clearly marked so there should not be any problems. Vadnais Lake Area Water Management Organization (VLAWMO) had a Zoom meeting. There is a new Administrator starting April 15 who is extremely qualified, and he would like everyone to reach out to him. He stated he is no longer on the Fire Board, but with COVID-19, the group should maybe re-look at purchasing a \$12 million station and hold off on the land. He noted it is a new world now and he would like Administrator Kress to look at that. On the VLAWMO front, they did an alum treatment for about \$200,000; they are taking care of Bruce Lake. He reminded everyone that it was a year ago when North Oaks had a very difficult Council meeting; he witnessed the Mayor get physically hit by a resident who was a little too involved at the April meeting. He and a few other concerned citizens nicknamed him "King of the Dirty Dozen," and that person is not welcome at Council meetings anymore. He said it was extremely disturbing to see a public official, a volunteer like the Mayor, physically hit by this person whom he will not name. He said it has been a year and the process continues to work. There have been a lot of changes at the City, and he feels the Council continues to listen to people. It has been difficult, to say the least. There has been a lot of anger, a lot of YouTube videos and police reports. He said the following day marks a one-year anniversary of a police report on him because he talked to the person who watched the Mayor get hit, and 5 days later the police received a 9-page email from her after he spoke with her. The Police Officer said it wasn't a police matter; there was not a crime. Ramsey County Sheriff Bob Fletcher also looked at the incident. The "Dirty Dozen" continue to bring the incident up and are using/misusing it, all for their own NIMBY (Not In My Back Yard) attitude. He said there are 12 people pushing this; he is tired of it, and will not allow it to happen. He said Administrator Kress has a copy of the goofy police report and there are statements from the Police Officer. He

commented that if people think the new world is going to be where you can abuse and hit people and write things about them, that is not going to happen in North Oaks.

Councilmember Ross noted she had a big delivery of mailboxes to her garage. There have been another 48 mailboxes that have been sent out into the community and another list started. It seems to be ever-popular and she thinks it will be ongoing for a while. She thinks the City's calls are going up in volume and there are people coming in to the community. She noted Deputy Burrell stopped someone who was driving his car with his knees. The man claimed he was working with one of the builders in town. However, he was not a resident and was not working with the builder that he said he was. She stated they are seeing a lot of odd things such as the 30 motorcyclists, and the City has to watch out and be prepared to deal with things as they come. She said North Oaks is a really attractive community for people and people have time on their hands now. There were basketball players that were not residents in the community; there was a car with several guys in it, including persons smoking marijuana and drinking. Deputy Burrell ended up calling for reinforcements and 4 police cars showed up. She noted these incidents were all within the last couple of days. She thinks the weather is inviting, especially when you live in North Oaks because it has lots of amenities.

Mayor Nelson noted it is a changed world since the last meeting. He thanked Councilmember Kingston, **Sandy Guka**, and another North Oaks resident whose name he has not heard, who helped Waverly Gardens after the COVID-19 crisis started to unfold. He spoke to Dan Erickson, a very capable administrator of Waverly Gardens, who noted they were very short of disinfectant cleaner for the facility. Councilmember Kingston checked around and got a hold of a person who is in the business of manufacturing disinfectant, and Waverly Gardens purchased 400 gallons and distributed that product to other Presbyterian Homes as well. Dan Erickson also told him they had no supply of masks. In checking the North Oaks area, they found there was a virtual army of individuals who were interested in making masks. Tami McNeil became "General McNeil" and started working with individuals. **Judy Oanesian, Emily Nelson, Heidi Keil, Phil Fleming, Teri Gustafson, Dan Gustafson, Ann Gustafson, Joanne Helgeson, and Nancy Lane-Smith** were involved in making masks for Waverly Gardens and are now making masks for Brookdale. It takes effort and time to make good masks, and there are well over 100 masks. He appreciates the efforts the residents in North Oaks have made. He said there are a lot of healthcare providers, and they are doing a terrific job in putting themselves in harm's way. The Council will make sure the City continues to provide the services that are appropriate and dedicated to helping residents. He noticed the Sheriff's Department has a help program for individuals they learn are vulnerable or in need of special assistance. The Sheriff is a resident in North Oaks, and the City appreciates his efforts and the fact that his people are in harm's way as well.

CITY ADMINISTRATOR REPORTS

a. City Administrator Staff Report

Administrator Kress said they are working on the new City website. He is working on securing the ".gov" domain so it would read "cityofnorthoaksmn.gov" or something similar. City Staff is also working on laser fiche implementation. There are "Alert" symbols on the new website which people will also see. North Oaks has been dealing with Granicus to change some

templates because of struggles with the header information notifying the public that the meetings are all electronic. They have been forced to send them out as pdf's and they are not loading properly in iLegislate. He noted the City has been using the Zoom platform for a number of different applications. They have also tried Skype and GoToMeeting platforms. They will continue to look at different options that will help the City during this time. They have been working exhaustively in the development application and spent a lot of time going back-and-forth and meeting with NOHOA, getting perspective, and listening to residents' concerns on the projects. Those will move forward soon. He noted he will give the Council some guidance about the Closed Session item as far as how it is processed.

Mayor Nelson said there are a lot of other people in North Oaks making masks and doing other good things; and although he does not know their names, he appreciates everyone's efforts during COVID-19.

Councilmember Long asked Administrator Kress to give the Council an update on the new water meters, as far as activity.

Administrator Kress said he does not have a new update yet and is still waiting on the final City audit which he thinks will indicate some new information. As soon as he has the City audit in hand, he can give the City Council an update on findings for Charley Lake and Red Pine Forest.

Councilmember Long noted the laptops are close to 4-5 years old. He asked if there is any technology the City should look at, given Zoom and the way the City is conducting business now, that might be a better tool.

Administrator Kress said he had a number of Councilmembers share they are displeased with the Surface tablets being used, even tonight. His recommendation is that if anyone is not in favor of using Surface tablets, that the City look into using a different platform. He would probably go away from the tablets entirely; it would be better to get laptops. He is open to ideas from the Council if they want to look at **app-wide pads** or a service like that. He noted that it is not budgeted but does not think it will break the bank. He felt it could be budgeted for the following year to recoup the cost.

Mayor Nelson recalled Granicus was originally written for the Apple iPad, so that is one of the reasons why **MyPad/iPad** might be a good choice. He suggested looking at the various items because the current ones are getting old.

CITY ATTORNEY REPORT

City Attorney Nason stated she has been working with City Staff on the Planning applications the City received, adjusting to the emergency declaration timeframe, and staying in touch with the League of Minnesota Cities. She noted all cities/City Attorneys are in the same boat in that everyone is in uncharted waters, with everyone meeting electronically and not knowing when it will be possible to meet again in-person. She is trying to keep abreast of the different changes that are occurring with respect to the Governor's various Executive Orders and how that impacts businesses and residents within the City, as well as Federal regulations that have come out with respect to essential workers and best practices with respect to social distances, etc.

Councilmember Long said he spoke with the author of the PDA/PUD over the last year, Bruce Malkerson, who said he is willing to speak to City Attorney Nason as a professional courtesy if she has any questions. He is the person who wrote the contract 20 years ago. If City Attorney Nason spent more than a little bit of courtesy time, Mr. Malkerson would need to bill the City.

City Attorney Nason said she knows Mr. Malkerson and has worked with him on other matters. She stated she thought **Tom Newcomb, III**, wrote the document. If the City Council would direct her to reach out to Mr. Malkerson, she would be happy to do so if he is willing to speak to her briefly and in a way that does not impact the City financially,

Councilmember Long said Mr. Malkerson was very concerned about the continued cost. He said he recommended \$8,000-10,000 be spent to look further. It is an opportunity to speak to the person who wrote the whole thing. He noted that Mr. Malkerson said if someone is taking a paragraph out of a 400-page document just to push someone's own agenda, that is wrong and the City should not allow that; it is just wasting money. The City cannot bill it to the Company anymore and they are refusing to pay for this.

Mayor Nelson suggested Councilmember Long talk to Administrator Kress offline after the meeting and see what Mr. Malkerson has to offer. He also mentioned he attended a virtual Zoom conference hosted by Senator Chamberlain and Representative Runbeck a couple weeks ago. There will be another conference on April 15. In the earlier conference the Representative and Senator stated if people had questions, they could submit them before the meeting and possibly have them addressed. He stated if people have questions they would like addressed relative to the COVID-19 crisis and relative to legislative action, he would be happy to hear from them via email, or people could send them to Administrator Kress and the Council can submit them to Roger Chamberlain and Linda Runbeck prior to that meeting. They may or may not get a response, but at least people could do that.

CITY ADMINISTRATOR PERFORMANCE REVIEW – PURSUANT TO MINNESOTA STATUTE CHAPTER 13D.05, SUBD. 3, THIS MEETING WILL BE CLOSED TO THE PUBLIC

Mayor Nelson stated there would be a City Administrator performance review taking place which is closed to the public. He stated notice is given this day, April 9, that the North Oaks City Council will be meeting in a closed session at 8:31 p.m. to conduct the City Administrator's performance review.

Consider Authorizing City Attorney Nason to talk with Bruce Malkerson

Administrator Kress said before that occurred, he needed to go back to the authorization for the City Attorney to work with Mr. Malkerson. He stated there needs to be approval from the Council if the intent is to have City Attorney Nason do some kind of review. He clarified and said if the City is looking for authorization, he would like to see a motion indicating that. Otherwise, he is not authorized to have City Attorney Nason talk with a separate Attorney.

Mayor Nelson asked Councilmember Long if he would like to make a motion.

Councilmember Long stated it was going to be a friendly conversation with no bill.

Mayor Nelson noted City Attorney Nason will have to charge the City.

Councilmember Long said he does not want any more City bills.

City Attorney Nason said she is happy to talk to him for ½-1½ hours and not bill the City. She noted the question is, does the City want their lawyer talking to this other lawyer, which is what Administrator Kress was getting at.

Mayor Nelson said he does not want City Attorney Nason working for free for any reason but there could be a short conversation.

Councilmember Long said there does not need to be a motion. He can talk to Mr. Malkerson because they are friends and have business together.

Councilmember Kingston said City Attorney Nason indicated she is willing to have a conversation with Mr. Malkerson if he wants to talk to her and there is no cost to either party. If she is able to find out what he knows or has a question, there is no harm/no foul.

MOTION by Long, seconded by Kingston, to approve a short discussion between Bruce Malkerson and City Attorney Nason to see if there is anything that needs clarifying relative to the original PDA and things Mr. Malkerson was involved in.

Administrator Kress stated he would like to sit in on the conversation as well.

Mayor Nelson said he thinks that is great and anybody can as long as there is not a quorum issue.

AMENDMENT MOTION by Long, accepted by Kingston, to have City Attorney Nason, Administrator Kress, and himself sit in on the meeting. Motion carried unanimously by roll call.

CITY ADMINISTRATOR PERFORMANCE REVIEW – PURSUANT TO MINNESOTA STATUTE CHAPTER 13D.05, SUBD. 3, THIS MEETING WILL BE CLOSED TO THE PUBLIC (continued)

City Attorney Nason indicated she sent out a script of the motion that needs to be made, seconded, and a roll call vote taken to go into the closed session. She offered to read it if necessary for Council consideration.

Administrator Kress told City Attorney Nason she needed to read it.

City Attorney Nason said she is looking for a motion by a member of the Council or the Mayor as follows: “I move to close the meeting pursuant to Minn. Stat. § 13D.05 Subd. 3 for the purpose of evaluating the performance of City Administrator Kevin Kress. The closed meeting will be held via telephone only on a separate Zoom conference call number and will commence immediately. Once the closed meeting is completed, the City Council will reconvene the open

meeting portion of tonight's City Council meeting on this Zoom conference call number. Members of the public who wish to remain on the line may do so. The line will be silent until the Council and City Administrator re-join following completion of Mr. Kress' performance evaluation."

MOTION by Ross, seconded by Ries, to adopt the language read by City Attorney Nason. Motion carried unanimously by roll call.

The meeting was reconvened at 9:22 p.m.

Mayor Nelson noted the City Council had a closed session wherein they discussed performance and employment issues with Kevin Kress relative to his contract. He was scheduled for an April review of his contract, which began on December 2, 2019. Mayor Nelson gave a summary as follows: the City Council reviewed the contract and noted the COLA increases had surpassed the anticipated increase in his salary that would have occurred in April that had been built into the contract. The City Council has taken this to public meeting to have a vote on what they are going to do, and the anticipated action is to revisit Mr. Kress' contract in September relative to pay scale for an increase that would take place in December, depending on performance and review in September. Additionally, the City Council is prepared to make a motion to grant the balance of the PTO that was, pursuant to the original contract, accruing every quarter. Now that the City Council is highly satisfied with Mr. Kress' performance, they are going to grant the balance of his PTO that would accrue through the end of his first-year contract, January 1. Mayor Nelson said that is the motion before the City Council if someone wished to make it.

MOTION by Ries, seconded by Kingston, to amend Kevin Kress' employment contract to allow him to take the remainder of his PTO upfront/release the balance of the PTO that would be accruing in Mr. Kress' contract.

Mayor Nelson said he understood from Mr. Kress that the Council will draft the language offline and change it around.

Motion carried unanimously by roll call.

Administrator Kress stated he will work with Mayor Nelson to clarify the COLA language and resend the contract to the City Council.

NEW BUSINESS (continued)

b. Approval of Minutes from March 12, 2020 City Council Meeting

Administrative Assistant Debbie Breen asked if the verbatim minute-taking would apply to the City Council, Planning Commission, and Natural Resource Commission (NRC) meetings.

Administrator Kress said he took it as all of them even though it was not directly stated in the motion. He suggested a separate motion would be cleaner stating that all Planning Commission and Natural Resource Commission minutes will be verbatim/contracted out.

Mayor Nelson suggested that there should be a verbatim transcript when there is a significant Planning Commission issue. He said the NRC meeting is such a causal meeting that he is not sure it is suitable for verbatim. He asked for input from other Councilmembers.

Councilmember Ross said she doesn't think it is necessary for the NRC; instead, save the money and do the City Council and Planning Commission meetings.

Mayor Nelson noted it is a pretty casual meeting and he thinks it is reasonable if everybody agrees. There does not have to be an end date, but the City Council can approve verbatim transcripts for the Planning Commission and not the NRC on an indefinite basis and revisit it when necessary.

MOTION by Kingston, seconded by Ross, to apply the verbatim minute-taking for the City Council and Planning Commission. Motion carried unanimously by roll call.

ADJOURNMENT

MOTION by Ross, seconded by Kingston, to adjourn the Council meeting at 9:33 p.m. Motion carried unanimously by roll call.

Kevin Kress, City Administrator

Gregg Nelson, Mayor

Date approved _____