

**CITY COUNCIL MEETING  
CITY OF FRIDLEY  
AUGUST 9, 2010**

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The City Council meeting for the City of Fridley was called to order by Mayor Lund at 7:32 p.m.

**ROLL CALL:**

**MEMBERS PRESENT:** Mayor Lund  
Councilmember-at-Large Barnette  
Councilmember Varichak  
Councilmember Bolkcom

**MEMBERS ABSENT:** Councilmember Saefke

**OTHERS PRESENT:** William Burns, City Manager  
Fritz Knaak, City Attorney  
Julie Jones, City Planner  
Kyle Knutson, Planning and Community Development Intern,

**PRESENTATION:**

**Fridley Royalty.**

**Kyle Knutson - Summer Systematic Code Enforcement Review.**

**APPROVAL OF PROPOSED CONSENT AGENDA:**

**APPROVAL OF MINUTES:**

**City Council Meeting of July 26, 2010**

**APPROVED.**

**NEW BUSINESS:**

- 1. Approve Revised Contract for Administrative Services between the City of Fridley and the Metropolitan Council for the Section 8 Housing Assistance Program.**

**William Burns**, City Manager, stated Council approved the new contract on June 14. Other cities that also provide these services were not as quick to approve the contract. When they did respond, they asked for a few minor changes. They are acceptable to the City. Staff recommends Council's approval.

**APPROVED.**

**2. Resolution Approving an Amendment to the Contract for Curbside Recycling with Allied Waste Services.**

**William Burns**, City Manager, stated while staff considered going to a long-term, single-sort contract for recycling services, they ultimately decided to ask for a one-year extension of our dual-sort recycling contract with Allied Waste. A one-year extension will give the City and the Environmental Quality & Energy Commission the opportunity to complete a study of garbage collection methods before getting tied into what is very likely to be a 5 to 7 year single-sort recycling contract. The single-sort contracts are long in order to cover the costs the contractor incurs buying the containers.

**Dr. Burns** said the new contract would extend the City's existing service with Allied Waste from April 1, 2011, to March 31, 2012. Under the terms of the contract, the City's rates would be increased by 3 percent. The revenue sharing split would remain in place but, instead of a 50/50 split, the City would receive 40 percent of the revenues of the recyclable items. This will generate between \$12,000 and \$45,000 per year for our drop-off programs, depending on market conditions for those items. Staff discussed the extension with the City Attorney who believes that, under the circumstances, the one-year extension is legally justifiable. Staff recommends Council's approval.

**THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED ON THE REGULAR AGENDA.**

**3. Resolution in Support of an Application to Conduct Off-Site Gambling by the Lions Club of Fridley at Community Park from August 20-22.**

**Dr. Burns** stated the permit would allow the Fridley Lions Club to conduct a raffle and sell pull tabs at Community Park during a softball tournament the weekend of August 20 through 22, 2010. Staff recommends Council's approval.

**ADOPTED RESOLUTION NO. 2010-46.**

**4. Claims (147095 – 147284).**

**THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA AND PLACED ON THE REGULAR AGENDA.**

**5. Licenses.**

**APPROVED THE LICENSES AS SUBMITTED AND AS ON FILE.**

**6. Estimates**

**APPROVED THE FOLLOWING ESTIMATES:**

Valley Paving Inc.  
 8800 – 13<sup>th</sup> Avenue East  
 Shakopee, MN 55379  
     2010 Street Rehabilitation  
     Project No. ST2010-01  
     Estimate No. 2.....\$247,432.58

Northwest Asphalt  
 1451 Stagecoach Road  
 Shakopee, MN 55379  
     2010 Street Rehabilitation  
     Project No. ST2010-01  
     Estimate No. 3.....\$179,787.67

**APPROVAL OF PROPOSED CONSENT AGENDA:**

**Councilmember Bolkcom** asked that Item Nos. 2 and 4 be removed.

**MOTION** by Councilmember Barnette to approve the consent agenda. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**ADOPTION OF AGENDA:**

**MOTION** by Councilmember Bolkcom to approve the agenda with the addition of Item Nos. 2 and 4. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**OPEN FORUM:**

No one from the audience spoke.

**PUBLIC HEARINGS:**

**7. Consideration of a Text Amendment Request, TA#10-01, by Voigt’s School Bus Service, Inc., to Allow Parking of Fleet Vehicles in the M-1, Light Industrial, and the M-2, Heavy Industrial Zoning Districts, Generally Located at 7600 Central Avenue N.E. (Ward 2).**

**MOTION** by Councilmember Varichak to open the public hearing. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 7:58 P.M.**

**Julie Jones**, Planning Manager, stated petitioner is seeking a text amendment to add language to the M-1, Light Industrial, and the M-2, Heavy Industrial districts that would allow parking of fleet vehicles as an accessory to the principal use on a lot, provided specific code requirements can be met.

**Ms. Jones** stated Voigt Bus Service, which is currently located at 1240 Osborne Road, is in the process of purchasing the property at 7600 Central Avenue Anderson Trucking. It is the petitioner's desire to expand their business onto the subject property. The petitioner plans to store small buses of approximately 12,000 pounds on the subject property. The storage of the vehicles will be in the side and rear yard of the lot, alongside or behind the existing building. The petitioner initiated the proposed text amendment.

**Ms. Jones** stated the City does not allow parking of fleet vehicles and in most instances, it would consider the parking of these vehicles "outdoor storage" and would require the business to get a special use permit. Over the last several years, staff has been approached by businesses wanting to move into Fridley that have the need to park their fleet vehicles overnight. Staff has also come across businesses that are already in operation in Fridley and have some type of parking of fleet vehicles that are used during the day and parked on site at night.

**Ms. Jones** said many of the industrial spaces that exist within the City may attract tenants who have the need to park fleet vehicles overnight. As long as certain conditions can be met, staff has determined these types of uses should not be discouraged.

**Ms. Jones** stated when Voigt Bus Service approached the City about purchasing the Anderson Trucking site to expand their operation, staff started evaluating how reasonable this type of accessory use would be for all of our industrial properties located in the M-1 and M-2 zoning districts.

**Ms. Jones** stated staff has drafted an ordinance allowing the parking of fleet vehicles related to the principal use (or business) on site as an accessory use, provided the following conditions can be met:

((1)) Vehicles shall be licensed and street operable.

*Ensuring that vehicles are currently licensed and operable eliminates the opportunity for junk vehicles to be stored on site. This in turn, will also prevent fleet vehicles from becoming an outdoor storage issue.*

- ((2)) Vehicles shall be parked on an approved hard surface.  
*City Code requires vehicles to be parked on an approved hard surface, such as concrete or asphalt, so this condition is just restating the requirement.*
- ((3)) Vehicles shall be parked in the side or rear yard only.  
*Requiring the vehicles to be parked in the side or rear yard only will prevent the vehicles from being parked in the front parking lot which is more visible from the public right-of-way. City code requires that all storage be limited to the side or rear yard, so this requirement is expanding off that.*
- ((4)) Vehicles shall be under a gross vehicle weight of 26, 000 lbs.  
*The petitioner provided staff with weights of typical buses used for their business. Based on information provided, a typical school bus weights 26,000 lbs. Though the petitioner plans to store small buses on the subject property which weigh approximately 12,000 lbs, staff determined that the maximum size vehicle we would think is reasonable to be included in the "fleet vehicle" category should weigh under 26,000 lbs. Any vehicle larger would be more appropriately parked or stored in an M-3, Outdoor Intensive, Heavy Industrial zoning district.*
- ((5)) The parking stalls dedicated for the parking of fleet vehicles shall be in addition to what code would require for parking stalls on the site.  
*City staff wants to ensure that parking demands for the existing uses within the building are met before additional stalls are dedicated for parking of fleet vehicles. If a particular business is required to have 20 parking stalls based on the office, manufacturing and storage space within the building, and the business needs to have 5 stalls for fleet vehicles, they would be required to have 25 parking stalls on-site.*
- ((6)) The parking area shall be properly lit, with shielded and downcast lighting and properly secured.  
*For security reasons it is important to have the area where fleet vehicles are parked lit and secured. Securing the area could be through the use of fencing, cameras, alarm system, etc.*

**Ms. Jones** stated staff has determined the conditions placed on the accessory use are necessary to meet the purpose and intent of the zoning ordinance. Off-street parking is considered an accessory use, as is off-street loading facilities and business signs for uses permitted. Staff would consider the parking of fleet vehicles an extension of the off-street parking accessory use as long as the conditions the City laid out can be met. This type of accessory use would be considered reasonable to be allowed in the M-1 and M-2 zoning districts, without causing disruption to the neighboring properties and uses.

**Ms. Jones** stated staff finds the extension of the Voigt Bus Service business onto the subject property with the parking of fleet vehicles as an accessory use would comply with the conditions set forth in the proposed text amendment.

**Ms. Jones** stated this re-utilization of the subject property will improve the overall condition of the property, and by approving this text amendment, the City will bring into compliance several other businesses within the City.

**Ms. Jones** stated as a result of this request, petitioner will be required to comply with landscaping requirements for the subject property. The site will require the installation of a total of 37 trees. Staff has agreed to allow the petitioner to install 15 trees now with the proposed improvements to the east side of the site. At such time as the proposed grassy area to the west develops, the additional 22 trees will need to be planted.

**Ms. Jones** stated the property will be updated by hard surfacing the area on which the vehicles are parked or driven. Petitioner plans to control the water run-off by complying with any requirements set-forth by either the City or the Rice Creek Watershed District.

**Ms. Jones** stated they also plan to add green space to the west side of the lot, which is currently gravel. At some time in the future, the petitioners would like to construct a building in this location for the storage of their buses.

**Ms. Jones** stated on July 21, 2010, the Planning Commission held a public hearing and unanimously recommended approval. Staff recommends Council's approval.

**Ms. Varichak** asked if this is the first time the City has ever done anything like this?

**Ms. Jones** replied as far as the text amendment, yes. When she has done code enforcement work, she met with several businesses and property owners and tried to come up with an agreement as to where they could store their fleet vehicles that is less visible. This has been a difficult thing to deal with because they have businesses in town where the City feels what they are doing is reasonable but within the confines of the Code, it is not allowed. They did recently have a business apply for a special use permit to be able to store fleet vehicles at one of our M-2 Industrial properties in the southern end of the City. With the process that would have been involved, the business decided to move to a site in Blaine instead where they had fewer requirements they had to abide by. The City has lost some businesses because it does not have this allowance in Code. Staff sees this as a positive improvement for the City. It would bring into compliance some businesses staff feels are doing a good job of trying to keep their site looking presentable.

**Ms. Varichak** asked if this would change the hours of operation for this company.

**Darwin Voigt**, CEO of Voigt Business Service, replied, no, they run bus schedules; and they have a set schedule with the schools. Roughly the first bus leaves about 7:00 a.m. and the last bus gets in about 5 p.m.

**Mayor Lund** asked with the expansion on this new property, will their hours expand.

**Mr. Voigt** replied, no. He said in the M-1/M-2 district they have another property that adjoins it, and asked if this was going to change the parking they have there now.

**Mayor Lund** asked if he meant the existing facility located on Osborne Road.

**Mr. Voigt** replied, yes.

**Ms. Jones** stated she did not see how it would.

**Mr. Voigt** asked about their existing property.

**Ms. Jones** said it is her understanding they are storing the buses inside.

**Mr. Voigt** replied, according to what they have now they are allowed to park them outside on a hard surface. Those vehicles are over-the-road coaches, and they are heavier than 26,000 pounds. The new property is basically for school busses. Their long-range plan is to move out of their facility on Main Street down by Rice Creek. In talking with staff, it would be beneficial if they could move to one location.

**Mayor Lund** asked if the current zoning of the property on Osborne was M-2.

**Ms. Jones** replied, yes. It is her understanding, and she would have to look back in the records, there was some sort of agreement in the plat when these three properties were replatted in 1993.

**Mr. Voigt** replied the replat was done prior to them buying the property.

**Mayor Lund** asked if the Osborne property was purchased from Mr. Anderson.

**Mr. Voigt** said it was Mr. Anderson's property. They replatted it to sell off some of the property.

**Mayor Lund** replied, there must have been some exception or agreement, because if it is M-2, currently they are not allowed what they consider "outdoor storage" and yet they have been placing large, as well as smaller, buses on the M-2 current site.

**Mr. Voigt** stated it was part of the permit when they built. The building permit said they were allowed to park outside as long as they were on a hard surface.

**Ms. Jones** stated she recalled an allowance for a couple of coach buses to be stored outside under certain conditions. She said M-2, but it is really M-1. Staff will have to look into that. It is not the intent of this text amendment to change anything that the petitioner has approvals for on the existing property. If there were stipulations about that in the previous plat, they would still stand.

**Mayor Lund** said that would be specific to that actual property only. There has to be something in the text amendment that might say there is, notwithstanding this existing property.

**Mr. Voigt** said there is something in writing but he did not bring it with him. There should be nothing in there about coaches when Anderson did the split because at that time they were not talking with them about purchasing this property. He does not know why it would have been in

at that time, but it was in when they got their building permit and that was when that was put in there.

**Mayor Lund** stated there must be something here already because the property he is purchasing was the old Anderson Trucking Service. He asked if it was considered outdoor storage then when they were parking semi trailers that were licensed, heavier than 26,000 pounds.

**Mr. Voigt** said he thought they were restricted to 10 units.

**Ms. Jones** replied, yes, and that is under old Code language that they were a legal non-conformance. That was a problem issue there, too.

**William Burns**, City Manager, said it sounds like something they need to come back to Council and the petitioner with when this comes back for first reading.

**Councilmember Varichak** asked Ms. Jones whether staff has heard from any neighbors.

**Ms. Jones** said they have not heard from anyone.

**Councilmember Varichak** asked Mr. Voigt if he agrees with the six stipulations.

**Mr. Voigt** replied, yes, he does. There is the tree thing, but he will go along with it.

**Councilmember Bolkcom** said this is a text amendment not just for this property, but for all properties in M-1 and M-2. Any other business that would want to do something similar would have to comply with these.

**Ms. Jones** replied, where the tree thing comes in with the plat goes back to 1993. There were conditions that were supposed to be met and one of those was landscaping and for some reason that was not done.

**Mayor Lund** asked if the property had already been purchased.

**Mr. Voigt** said it has been purchased.

**Councilmember Bolkcom** stated she does not see any attachment from the Planning Commission minutes and asked if they could have them before the next meeting. She asked if they needed a special use permit.

**Ms. Jones** said they did not.

**Councilmember Bolkcom** asked how staff would know how many vehicles anyone in an M-1 or M-2 District has. Ms. Jones said there were other businesses who were not in compliance that would be in compliance if this text amendment goes through. She asked how they would know if they were the right size.

**Ms. Jones** replied, as far as the current businesses she was referring to, they have fleet vehicles they are storing, and the City Code does not permit that.

**Councilmember Bolkcom** stated but one of the conditions indicated they have to correct the parking.

**Ms. Jones** said they normally get into that with businesses, for example, if a new business was planning to move into town or to expand. For existing businesses, staff would not be dealing with this unless there is a problem and parking is going beyond the boundaries of their property.

**Councilmember Bolkcom** asked about the parking conditions.

**Ms. Jones** said the City Code requires “X” number of parking spots for the use. What this is saying is if you are going to store fleet vehicles on-site, besides meeting their code-required parking stalls for your use, you have to have enough parking stalls to accommodate both.

**Councilmember Bolkcom** asked if there were problems with people parking on the street then. She said she received a complaint from someone who cannot even pull out of their business because there are trucks parked along the street all the time, and it is unsafe for them. Basically other than some new business that comes in, this text amendment is really not doing anything other than keeping them in compliance; and the City really will not be following up on them as long as no one is parking in the street.

**Ms. Jones** replied, as with a lot of things in the City Code, they do not do anything until there is a problem. They have to have the Code language in place to solve it.

**Councilmember Bolkcom** said so someone could be parking a big motor coach or tractor trailer on their property and as long as no one complains they are parking there or staff happens to be driving by and do code enforcement they will not have to do anything. In reality anyone else could be parking bigger than 26,000. However, now we have a text to back us up.

**Dr. Burns** replied, except we do try and do commercial code enforcement every five years.

**Ms. Jones** stated to clarify, they do have five staff people who do code enforcement and have a staff person out almost every day of the week doing code enforcement all over the City. Staff is looking for problems all the time, not just when they are doing systematic enforcement.

**Councilmember Bolkcom** said you can see by the number of public hearings related to special use permits that are no longer active that this is an issue. If they are going to do a text amendment, let us make sure that it is enforceable and that businesses that are not compliant know what the rules are. She said she would hope after the first and second reading that those businesses staff are aware of would be sent a copy of this so they know what they can or cannot do on their property.

**Mayor Lund** asked Councilmember Bolkcom if she wants staff to take the step of notifying existing businesses of the change in the ordinance.

**Councilmember Bolkcom** stated because Ms. Jones mentioned there were other businesses that were not in compliance.

**Mr. Voigt** stated they have been in Fridley for 25 years. If the weight is an issue, maybe they could change it to three axles, no semis or something like that.

**Mayor Lund** said he does not know how much of an issue it is now, other than he did agree with the statements from Ms. Jones and from what he read in his packet that in M-1 and M-2, 26,000 pounds or less because that is an identifiable thing by the State Patrol and State law as a designation of a medium-duty vehicle and a heavy-duty vehicle. That is very distinct in licensing of commercial vehicles.

**Councilmember Bolkcom** asked is he saying the license plate is actually registered for a certain poundage vs. axles.

**Mayor Lund** replied, right.

**Ms. Jones** said the definitions come from State statutes.

**Mayor Lund** stated and they go by weight and not by number of axles. He did agree with the fact though in Ms. Jones' presentation and in his packet that says, this seems more appropriate for M-1 and M-2, whereas the heavier vehicles over 26,000 pounds (alluding to semi trucks, semi tractors, the heavier trucks) are more appropriate in an M-3 where you might see that type of activity anyways, at least for parking of vehicles.

**Councilmember Bolkcom** asked what a big coach bus weighed.

**Mr. Voigt** replied, about 38,000 pounds.

**Mayor Lund** stated and that is why he is unclear as to how Mr. Voigt got these bigger buses on Osborne already.

**Mr. Voigt** said the weight was never the issue.

**Councilmember Bolkcom** asked regarding hearing from the neighbors, was just the property around the bus company notified.

**Ms. Jones** said they have not heard from anybody in the community. This is citywide. There were no mailings done. The only notification done was in the newspaper.

**Councilmember Bolkcom** asked whether there were any residential properties around these M-1/M-2 properties.

**Ms. Jones** replied, in this particular case there is residential across the street.

**Councilmember Bolkcom** stated but that person might not even know this text amendment is in front of them. She is not saying they should have been notified, but she is saying they do not really know what impact this might have on anyone, because now there are fleet vehicles being allowed to park here. Maybe it is the bigger buses, but she sees buses leave at 6 o'clock when she leaves for work. That is on the other property but, again, they are talking about M-1/M-2 having fleet vehicles being allowed in some of these businesses now and it could affect traffic and noise.

**Ms. Jones** stated they are industrial properties. In this case, they had a trucking operation on this site since the 1970's.

**Councilmember Bolkcom** asked, but it could change some of those M-1's/M-2's that are near residential properties that were actually following the Code and not having fleet vehicles?

**Ms. Jones** replied, she is hard-pressed to think of an example where it would be next to residential. Most of the cases she can think are south of the freeway in a totally industrial area.

**Councilmember Bolkcom** asked about the businesses on Main Street.

**Ms. Jones** replied, she is thinking along Industrial Boulevard, near the BAE site. There are a couple in the Onaway District. She cannot think of one besides this site that would be across from residential.

**Mayor Lund** stated there is no mention of fencing or screening. Is this site already screened or fenced with privacy fencing?

**Ms. Jones** replied, yes.

**Mayor Lund** stated but that is not listed as a stipulation in the text amendment. Is that because it is already precluded in an M-1 or M-2? It is not considered outdoor storage, it is parking of fleet vehicles in this case. Is there a necessity for fencing?

**Ms. Jones** replied, they thought about that but what they did is put the requirement in that it be in the rear or the side yard. In most cases they do have fencing, but they do not want to stipulate that because a lot of times the Police Department really does not recommend that. They would really rather have the area well lit and have security.

Debate followed as to how the proposed requirements would impact the McGarvey Coffee business.

**Councilmember Bolkcom** asked whether staff has looked at what other communities are doing.

**Ms. Jones** replied, Ms. Stromberg had done some research on that but she did not have it with her.

**Councilmember Bolkcom** asked to have it provided at the next meeting.

**Councilmember Barnette** stated one he is a little familiar with is Kottke Bus in Andover. They have a facility similar to what he thought Mr. Voigt is going to do.

**Councilmember Varichak** stated she thinks Anoka is also like that. It is located by the pool. All of their buses are outside also.

**Mr. Voigt** stated the majority of their buses will be inside. They will be parking some out at the facility they have on Main Street and over on Osborne. Then at the Central location they will be able to put them in. Most of the buses that will be coming out of the Central Avenue terminal will be the special needs buses.

**Councilmember Bolkcom** stated the petitioner is going to control his runoff by either the City and/or Rice Creek because it is not just one or the other. It says "or" in the text, but both might have different requirements. She asked if that was already taken care of.

**Ms. Jones** replied, no, but that is a change staff can make.

**Mayor Lund** asked if they had not requested the text amendment, would they most likely be applying for a special use permit or variance?

**Ms. Jones** replied, or a rezoning to M-3.

**Mayor Lund** stated it certainly makes sense in one respect because it is a similar business adding the bus business to the Anderson trucking site. He does not see that as a big change. He thinks it is a deviation of not having fencing. It makes an argument of course if police want to have sight lines, but why do they require fencing so many other times. The size and weight requirement might be an issue because when Mr. Voigt bought this it was only going to be for the smaller buses. He can see him very soon wanting to put the big buses in there and then he would be outside the parameters of this text amendment.

**Mr. Voigt** replied at the present site they have enough room for the larger buses. At such time when they build another facility, they would probably be putting some in there. Their original facility on Osborne is designed to be expanded south, and they could put another 20 to 25 coaches in there if they have to. The plumbing and sprinkler is all plumbed in for an addition, and that was in the original plan.

**Councilmember Bolkcom** asked what a regular school bus weighs.

**Mr. Voigt** replied, 26,000 pounds is a little light. It is probably closer to 30,000 to 32,000. They are not near as heavy as a coach.

**Councilmember Bolkcom** stated so in reality they really could not park school buses. They could only park the little ones. The way the text amendment is written now, you can park your little fleet vehicles there but not the regular school buses.

**Mr. Voigt** said some of them you could because they go towards body section. You could get a bus that is 40-feet long and the little ones are 20-feet long. Some of them in between are going to fall within that 26,000 category.

**Councilmember Bolkcom** stated you would have to run the plate on each one.

**Mayor Lund** stated it is already marked on the plate. That brings up a good point. This text amendment talks about 26,000 pound vehicles. Are they talking about the gross vehicle weight rating or are they talking about the licensed weight, because that is two different things.

**Ms. Jones** replied, in all other sections of the Code it is gross vehicle weight.

**Councilmember Bolkcom** stated that is what it states in No. 4.

**Mayor Lund** stated it did say in their packet that they were going to get a matrix of the City of Eagan's research because they are researching the same issue.

**Councilmember Bolkcom** asked if they should continue the public hearing because they do not have all the information. She would like it continued because there are some questions about Mr. Voigt's property. She is concerned that they would close it and have a first reading and have to go back.

**Ms. Jones** stated she does not have a problem with having discussion at the first reading.

**Councilmember Bolkcom** stated if there is no urgency, she would like to have that information as part of the public hearing. When they do a text amendment it is nice to see what other businesses staff is saying are not compliant.

**Mayor Lund** stated he suggests they continue the public hearing.

**Mr. Voigt** asked what that did for the timeline.

**Mayor Lund** said it puts it back approximately two meetings.

**Dr. Burns** stated there will not be a first reading for about a month.

**Mr. Voigt** stated they have to get their drain ponds in and black top in. He asked that they explain the first reading.

**Mayor Lund** replied at a public hearing they take public input but do not make any decisions. If they close the public hearing tonight, they could have a first reading of the ordinance change at the next Council meeting. You have to have two readings of an ordinance and then it has to be published. If you already knew what the timeline was until publication, this adds approximately two weeks if they continue the hearing.

**Councilmember Bolkcom** stated they are talking the end of September vs. September 13.

**Councilmember Barnette** asked Mr. Voigt how he felt about this.

**Mr. Voigt** said he can understand the reason behind it. Naturally they would like to get done as soon as they can, but he understands and agrees with it.

**Councilmember Barnette** stated it is a procedural thing and he agrees they do that.

**Councilmember Bolkcom** stated usually after the first reading he could move along and start his work.

**Mayor Lund** stated it is highly doubtful that they are going to make an about face. It is usually for clarification purposes. Although the petitioner may take some risk, and he should talk to staff about that, he could do some of his preliminary work.

**MOTION** by Councilmember Bolkcom to continue the public hearing to the August 23, 2010, City Council meeting. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS CLOSED AT 8:48 P.M.**

**8. Consideration of the Revocation of Multiple Special Use Permits: SP #87-16, SP #03-24, SP #86-04, SP #87-21, SP #88-01, SP #07-06, SP #03-07, SP #08-01, SP #05-04 and SP #10-03.**

**MOTION** by Councilmember Barnette to open the public hearing. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS OPENED AT 8:49 P.M.**

**Ms. Jones**, Planning Manager, stated in the summer of 2009, systematic code enforcement of commercial and industrial properties was conducted. Numerous properties had been issued a special use permit and were not in compliance with the conditions and stipulations. City Code Section 205.05.5.G requires that the recipient begin work required by special use permit stipulations within one year. If work has not started, the permit is null and void, unless an extension is given. Additionally, failure to comply with conditions and stipulations shall result in the revocation of the SUP. The list of properties is included with staff's memorandum. Note that staff is no longer recommending revocation of SP #10-03 for Blue Water Properties as the owner is working to meet the screening requirements stipulated in that permit.

**SP #87-16 - Rubber Research, 4500 Main Street N.E.**

**Ms. Jones** stated this is for exterior storage of materials and equipment in M-2. They have not met landscaping, hard surface parking lots and curbed driveway stipulations. A 2007 fire at the

site prompted investigation. In May, 2009, staff tried to gain compliance with unmet stipulations. After numerous extensions, the site has yet to be landscaped or paved according to stipulations established 23 years ago. In the end, staff considered this permit from 23 years ago probably does not even apply to the use on this site and are advising Council to revoke the permit. It is her understanding that these permits that do not come into compliance within one year basically are null and void by definition of the City Code. What they are asking Council to do in these resolutions tonight is to allow them to make the record clear in the property tax records of these properties because that is where the original permit was recorded.

**Councilmember Bolkcom** asked how have they been notified.

**Ms. Jones** replied, they have been notified by direct letter to both the business and landowner if applicable.

**Councilmember Bolkcom** asked, regarding this special use permit, have there been any discussions with the property owner since May, 2009?

**Ms. Jones** replied, numerous discussions by telephone.

**Councilmember Bolkcom** asked when was the most recent one.

**Ms. Jones** replied, this evening at probably 5 o'clock. She has been having many discussions just in the past few days. The business understands that the permit was null and void back in 1988 and that this is a formality. The City needs to file the documentation at the County to demonstrate that and they need to apply for a new special use permit.

**Councilmember Bolkcom** asked if this resolution passes tonight, do they have to remove the exterior storage and equipment.

**Ms. Jones** replied they already have.

**Councilmember Bolkcom** asked how does something not get taken care of since 1988. She asked how they keep track of all the stipulations and make sure they are complying.

**Ms. Jones** said they had a computer tracking system now.

**Councilmember Bolkcom** asked but staff does not go to all the special use permits and make any kind of a visit to make sure they are in compliance?

**Ms. Jones** replied staff actually calls and reminds businesses when their one-year timeline is up.

**Councilmember Bolkcom** asked if staff was doing any kind of site visit.

**Ms. Jones** stated they often do reinspect. They are hoping to reinspect commercial and industrial every three years.

**Mayor Lund** asked if Rubber Research is still in violation because they already eliminated the outdoor storage. There were several stipulations. He asked about the extensions.

**Ms. Jones** replied outdoor storage was one of the things the City had granted them an extension for last summer. The main problem is they never completed the landscaping or the paving. They paved part of the site but not all of it. If they continue to use part of their site, they will need to do some more paving.

**Mayor Lund** stated there will need to be some follow-up already because even with the removal of the special use permit, they are still out of compliance with other elements.

**Councilmember Bolkcom** asked whether the stipulations are just for the special use permit.

**Ms. Jones** replied, yes, but some of the stipulations, such as the landscaping, is something they would have to do without the special use permit.

**William Burns**, City Manager, said they would also have to do the paving.

**Councilmember Bolkcom** asked what the paving was for.

**Dr. Burns** replied the City requires hard surface paving.

**Councilmember Bolkcom** stated but if they are not driving or parking on it, then they would not need it.

**Ms. Jones** stated the special use permit was for outdoor storage.

**Councilmember Bolkcom** stated it sounds like the stipulations were related to the special use permit because the reason for the revocation is failure to comply with multiple stipulations. What she is now telling her is the special use permit just has to do with it being a business.

**Ms. Jones** stated a couple of the stipulations, the paving and the landscaping, are basic City Code requirements. They were in the Code at the time they got the special use permit in 1987.

**Mayor Lund** stated many times he has seen stipulations that are a reiteration of what is already required.

**Councilmember Bolkcom** said but it is two different things. One is related to the special use permit and the other is related to a building permit.

**Ms. Jones** stated the paving and the landscaping stipulations were related to a specific site plan outlining how they were going to put outdoor storage on the site. They no longer have outdoor storage on that site. That site plan, in her opinion does not apply anymore because they never complied with that plan. As staff told them when they met with them in 2009 on-site, they needed to come forward with a new site plan and would be given new stipulations. It is an old permit. They need to start completely over.

**Councilmember Bolkcom** asked what makes them have to do the rest of it, if they know they are not going to have a special use permit. They have not been held accountable since 1988. The City now sends them a letter and says, you still need a site plan and you still need to do the following things.

**Ms. Jones** said they are going to get a notice that they do need to meet the landscaping requirements with the City.

**Attorney Knaak** stated there might be a bit of a mix-up here as to what part is being enforced. If this was still in effect and they were doing what they originally planned to do and they were instead in violation of some of the landscaping, there would be an issue on the landscaping that the City could go after them. They could also review the permit because there is a violation of the terms of the permit in addition to the violation of the ordinance. Here, you are going to be eliminating the permit. The leverage that the City has on the landscaping is gone, but there are still the other regulations that are in effect for the City. It is not like they have no other responsibilities or obligations if they do not have the permit. Very often what staff will do is give the City in essence the extra tool of including these other kinds of requirements that are part of the ordinance as part of the special use permit so if they are not in compliance with the ordinances, that is another reason to yank the permit.

**Councilmember Bolkcom** asked how long they had to come into compliance related to the City Code.

**Ms. Jones** replied, 15 days. The standard for property maintenance is 15 days. Usually they have to give them more time.

**SP #03-24 – Wallboard, Inc., 5346 Industrial Boulevard N.E.**

**Ms. Jones** stated this special use permit was issued in 2003 for exterior storage of materials in the side and rear yards in M-2, but the stipulations have never been met. Staff has been working with them since 2003 and have been working intensely with them the past year. They have come forth with a proposal for a way to build storage buildings instead of having their storage all outside. They are going to build storage buildings over a three-year period to put their storage inside. If they cannot get it all inside these buildings then, at the end of the three years, they are proposing to come back to the City and ask for a new special use permit.

**Ms. Jones** stated, however, at 5:30 today she got a telephone call from Brian Graskow of Wallboard who is requesting that the City not revoke the special use permit at this time. They did submit a written request to be entered into public record.

**Mayor Lund** asked whether the letter was in lieu of the owner being here tonight.

**Ms. Jones** replied, yes, because the owner could not be here tonight. She said she would recommend that Council continue this hear until the next Council meeting so the owner will have an opportunity to be present at the meeting

**Councilmember Bolkcom** asked because they are all under one hearing, Council would have to continue the hearing period then. They are all part of one hearing, right?

**Ms. Jones** stated they could still take action on the other resolutions.

**Attorney Knaak** recommended tabling or continuing that part of the public hearing. Keep in mind what they are dealing with here are several public hearings. He said there should be some records on each of the public hearings. Once that occurs, Council can typically take action on any one of those. If they are going to close the public hearing at the end of this, be sure they indicate which part of the public hearing they are closing with respect to which of these parcels.

**MOTION** by Councilmember Varichak to receive a faxed letter dated August 9, 2010, from the manager of Wallboard, Inc., Brian Graskow. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**Ms. Jones** stated it has been staff's intent since they had this letter of agreement with them several months ago that even though they have never been in compliance with their special use permit, staff would give them time. It is a three-year plan for a section that was to be constructed by September 14, 2010; another section constructed by September 2011; and another section the following year. When they say "three-year" it was not that it was all or none for the three years. There is a section they are supposed to have constructed within a few weeks. It is laid out and referred to in the September 24, 2009, letter.

**Mayor Lund** referred to the August 9, 2010, letter. To him it seems they are stalling for another three years.

**Councilmember Bolkcom** asked if they have pulled a building permit.

**Ms. Jones** replied, no, and she discussed that with them this afternoon. They are in the process of beginning the engineering and plan to be pulling a permit in the next few weeks. They said this type of structure only takes a day or two to install.

**Mayor Lund** stated his first impression is that they are stalling.

**Ms. Jones** stated maybe this is a question for the City Attorney. In her opinion they do not have the special use permit now because they never met the stipulations of the 2003 permit and that is why they were proposing revocation of the permit. Staff's agreement was to continue to work with them even though they do not have a permit.

**Councilmember Bolkcom** asked about the agreement with the City.

**Ms. Jones** stated they do have an agreement with the City. At the end of the letter to Ms. Stromberg from Brian Graskow, it says this is with the understanding that during the building period, Wallboard will transition from its current outdoor storage situation to one that is either without outdoor storage or which will comply with the City's requirements for outside storage

under a new and separate special use permit. When staff had reached an agreement with them on September 24, 2009, it was their understanding then that they did not even have the special use permit anymore as they were never in compliance with it.

**Councilmember Bolkcom** asked what was the City's communication after this was received.

**Ms. Jones** stated they had several e-mails and meetings with them.

**Councilmember Bolkcom** asked and staff told them at that time they did not have the special use permit.

**Ms. Jones** stated staff told them it was going to be on this public hearing with all of these others.

**Councilmember Bolkcom** asked when they last had a meeting or correspondence with them.

**Ms. Jones** replied, last fall. This was dated in September.

**Councilmember Bolkcom** asked if staff told them there would be a public hearing now.

**Ms. Jones** replied, staff did not know the exact date when it was going to be. Staff had intended to do this months ago but they have been working on a lot of these, trying to get them into compliance.

**Dr. Burns** stated if the special use permit is null and void at this point, why would we want to table this tonight? Why not just go ahead with it?

**Attorney Knaak** stated technically, even though they are not in compliance and would not be able to enforce it, one of the reasons the Council has these reviews is to state it of record. The way they finally terminate it of record is you actually have a resolution or some official action on the part of the City. Right now you can have a 20-30 year old special use permit essentially unenforceable for any number of reasons but it is a matter of record. Someone could conceivably come in and attempt to gain compliance or start complying with it because these things do run with the land unless you take action. That is the reason why it is always good practice to go through and formally review these.

**Dr. Burns** asked but why not take the action tonight or at least close the public hearing and possibly even take action on the resolution rather than put it off for another meeting?

**Attorney Knaak** said that remains an option. They do need to formally pass a resolution which would then be recordable and would then terminate of record the special use permit.

**Councilmember Bolkcom** stated but not having this person in front of them and seeing this and thinking they have been working with staff and they have had a plan since September 2009.

**Mayor Lund** stated keep in mind that is almost a year ago, and they still have not done anything.

**Councilmember Bolkcom** asked but on the one before they gave them 23 years.

**Ms. Jones** stated staff is working with them. Staff is committed to continue to work with them for the three years. However, the point of the special use permit being in place does not help them because they are not in compliance with it. They do not intend to come into compliance with that special use permit. What they are planning instead is to put that outside storage inside buildings. Unfortunately, the owner does not understand that. Why she was not told about it before today she does not know because staff has been working with them.

**Councilmember Bolkcom** asked if it would hurt her if she chose to sell and did not have the special use permit.

**Ms. Jones** stated it hurts them today. Without the action they have taken. She cannot sign a zoning letter saying they are in compliance with that special use permit today, nor could she in the past seven years they have had this permit.

**Mayor Lund** stated both of the letters are e-mailed from the manager, Brian Graskow. The difference he sees in the letters is they had recognized 11 months ago that they would need a special use permit. Now they are saying they would like Council to continue the existing one to give them time to get the three-year plan completed. But as Ms. Jones is saying the special use permit does not help them anyway.

**Councilmember Bolkcom** asked how this was any different from other properties the City has had with special use permits such as the auto body places. They were out of compliance for a long time and let go for some time and then they came forward and said they were going to work on it and then it is another two or three years.

**Ms. Jones** replied, it is very different than those because in those cases they were working towards compliance with the stipulations of that permit. In this case they are working on compliance on something completely different that they do not need a special use permit for. They are working on doing away with the need for that permit.

**Councilmember Bolkcom** stated but in the meantime, they have outdoor storage because it is going to take them three years.

**Ms. Jones** said but it is not in compliance with that permit and it never is going to. That is what they are telling the City.

**Dr. Burns** stated the City's agreement allows them to keep the outdoor storage for the three-year period without the special use permit.

**Councilmember Bolkcom** asked and where is that agreement?

**Ms. Jones** in the letter that we agreed to.

**Councilmember Bolkcom** stated there is nothing from the City. That should probably be in the record, too. Something we agreed to.

**Ms. Jones** stated she has e-mails and correspondence. She was at the meetings. They agreed to that plan.

**Mayor Lund** stated and the plan was agreeable to both parties at that point.

**Councilmember Bolkcom** stated so what Ms. Jones is saying is she has a summary of what she agreed to with them.

**Ms. Jones** replied the letter is what they agreed to. They sent that letter summarizing what they agreed to in several meetings.

**Councilmember Bolkcom** asked but the City has not sent anything back stating, yes, this is correct? Just because someone sends the City a letter does not mean we agreed to it, does it?

**Ms. Jones** said they did. Mr. Hickok, Ms. Stromberg and herself met with them; and they agreed to that.

**Mayor Lund** stated it is now public record. Their understanding with this fax of today is they want to hold up or continue their special use permit which they have not abided by for approximately seven years.

**Councilmember Bolkcom** stated with the cost of the special use permit, she can understand they do not want to apply for a new one. With every special use permit they have, there should be some sort of checklist that is looked at after six months, nine months, and a year so the City does not have things that go on for years and years.

**Mayor Lund** stated he agrees.

**MOTION** by Councilmember Bolkcom to receive a faxed letter dated September 24, 2009, from the Vice President of Wallboard, Inc., Brian Graskow. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**SP #86-04 - Sentinel Chemical, 55 – 77<sup>th</sup> Avenue N.E.**

**Ms. Jones** stated the special use permit was issued in 1986 to a previous business, not Sentinel Chemical, for exterior storage of materials and equipment in the S-3 district. The special use permit called for a hard surface driveway and storage yard. They decided last summer when staff was working with them to eliminate the outside storage and not pursue compliance with the special use permit. Through discussions with the representative of the company today they are understanding and accepting of this.

**Councilmember Bolkcom** stated and staff does not have anything in writing. Just a conversation with them.

**Ms. Jones** replied right.

**Councilmember Bolkcom** stated maybe next time it would be clearer to have something in writing.

**Attorney Knaak** stated they have received formal notification and it was published. They are responsible for actually coming and stating on the record they are in opposition.

**SP #87-21 - CSM Properties, 500 - 73<sup>rd</sup> Avenue N.E.**

**Ms. Jones** stated CSM Properties came in last year as a result of Mr. Knutson's work and received two new special use permits. This special use permit issued in 1987 for exterior storage was prior to the property having a lot split. The new special use permits take over the current use of the property and the outdoor storage needs. They have been contacted and are aware of this and understand why it is not needed and being recommended for revocation.

**Councilmember Bolkcom** asked why it was not looked at when there was a lot split.

**Ms. Jones** said it still applied, but it was not until they applied for a new one last year that it was no longer needed because the new permit incorporated the old permit for outdoor storage and new things were added to it.

**Councilmember Bolkcom** asked why was it not removed at that time.

**Ms. Jones** said because they knew they were going to have this public hearing, and it was going to be added to the list.

**SP #88-01 - Crvsteel, 1130 73<sup>rd</sup> Avenue N.E.**

**Ms. Jones** stated this is a similar situation as the previous one. Their permit needs for outdoor storage had changed over the years, and staff had been working with this one for a number of years before Mr. Knutson did his work last summer and that really pushed staff to get it resolved. They came in early this year and received two new special use permits including one for a new neighboring property they are leasing space from. Their old special use permit has now been replaced by a new one.

**Councilmember Bolkcom** stated she does not get it. If they apply for a new special use permit in 2005, why does the old one not go away?

**Ms. Jones** replied 2010.

**Councilmember Bolkcom** stated it says #10-05.

**Ms. Jones** said there needs to be a formal action by Council and staff knew they were going to have this public hearing.

**Mayor Lund** stated at the time they apply for their current special use permit, they could easily add a statement removing the old one.

**Attorney Knaak** stated we have done that in some cases.

**Ms. Jones** stated they just renumber it. This was different, however, because it involved the neighboring property also.

**SP #07-06 - Global Health Ministries, 7831 Hickory Street N.E.**

**Ms. Jones** stated this was for limited outdoor storage of shipping containers in an S-3 zoning district, in the Onaway zoning district. It was her understanding they were unable to come up with the financing to do the screening that was required in the stipulations and have since come up with a different process of handling their shipping containers in their loading dock area. She has not heard from them and assumes they no longer need the special use permit.

**Councilmember Bolkcom** asked, so they have no containers outside right now?

**Ms. Jones** replied, occasionally they have them at their loading dock.

**Councilmember Bolkcom** stated but not like they had them before.

**Ms. Jones** replied, no, they had them stored for a month or more at a time.

**Mayor Lund** stated they did not contact staff.

**Ms. Jones** stated staff notified them. She talked to the executive director some months ago, but she has not heard anymore from them since notifying them of the hearing.

**SP #03-07 - Dahlke Trailer Sales and Service, Inc., 8170 Hickory Street N.E.**

**Ms. Jones** stated there are two special use permits. This special use permit was for the rock crushing facility in the M-3 heavy intensive outdoor storage district. They came to staff after they got the permit and said this is a temporary thing, they were not sure it was going to stay. Staff gave them some leeway in not coming into compliance with all of the stipulations. It turned out they were right; the operation did not stay long. It is no longer being used for that use for the site. They have since replatted and have some different plans for the future of this site and no longer need this special use permit. Staff has contacted them and they are okay with revocation of the special use permit.

**SP #08-01 - Dahlke Trailer Sales and Service, Inc., 8170 Hickory Street N.E.**

**Ms. Jones** said this special use permit was for a 125-foot telecommunications tower in an M-3 zoning district. The tower was never built. They contacted the company and they said they are no longer pursuing the tower and are fine with the revocation of this permit.

**SP #05-04 - DMK Management, 8290 Main Street N.E.**

**Ms. Jones** stated this is for another 125-foot telecommunications tower also an M-3 zoning district. That tower was never built.

**Mayor Lund** asked Ms. Jones whether she has ever had any discussions with the telecommunications people.

**Ms. Jones** replied, no, not on either of these.

**Mayor Lund** asked, they are not contesting it, but they have been duly notified?

**Ms. Jones** replied yes. She said they contacted Dahlke today because staff wanted to make sure. This one is so old and they knew they were not building it anymore but just wanted to clarify with Dahlke, and they said they are not pursuing the telecommunications tower anymore.

**SP #10-03 – Blue Water Properties, 7685 Main Street N.E.**

**Ms. Jones** said they had a stipulation with an August 1 deadline to meet for screening. At the time staff wrote the memo, they had not complied with that. Staff was concerned that they were not going to meet their stipulations. They have installed screening now, and that is why staff has removed them from the list. They are in compliance with their stipulation.

**Councilmember Bolkcom** stated but it was listed in the public notice.

**Ms. Jones** replied because at the time staff had to publish the public notice they were not in compliance with two of their stipulations.

**Councilmember Bolkcom** asked if they are in compliance with all of their stipulations.

**Ms. Jones** said staff is still evaluating their screening and whether it will meet the requirements of the City Code. We are satisfied. They have made progress. Staff always works with businesses and, if they are making progress, staff continues to work with them. They are not going to recommend revocation. They are making progress.

**Councilmember Bolkcom** replied, okay, but Ms. Jones said they were not sure they were happy with the screening. So then does it come back before them at a public hearing again?

**Ms. Jones** replied, yes.

**Councilmember Bolkcom** asked why would not just include it and table this portion. If they are not totally in compliance and some of these other ones are not in compliance. If we are not sure, why would we not include it in the public hearing because it was in the notice.

**Mayor Lund** asked if they would be in compliance in the next couple weeks.

**Ms. Jones** replied, they may be in compliance now. They are just having some differences of opinion with staff as to what exactly they need to do for the screening.

**Mayor Lund** stated it might be appropriate to continue it with the other one.

**Ms. Jones** stated she thinks that would be a bit unfair to the property owner because staff has not notified them that they were being considered tonight.

**Mayor Lund** stated regardless if they were to continue it. They can definitely remove it.

**Councilmember Bolkcom** asked if they are continuing it what is the unfairness. The City let them know that they are there because they are not totally in compliance. Otherwise the Council is going to have to have another public hearing to pass a resolution if there is an issue.

**Attorney Knaak** stated there is no harm in doing that. You could certainly notify them since they are going to be continuing it to one of the other hearings. If nothing becomes of it and they are in compliance, it is easiest enough to resolve it at that point.

**Mayor Lund** stated he thinks so too. He does not think it is unfair to them not being here tonight. Just notifying them they continued theirs, along with a couple of other ones they are going to continue. That may aid City staff in telling them they have a couple of weeks to get these issues resolved. Staff could report back to Council they are moving along in compliance, and it may be close enough for them to say, okay, we will just remove this because they have gained compliance.

**Councilmember Bolkcom** stated the Wallboard one is a little confusing to her and where they think they are at and where the City thinks they are at is the only other one she thinks they would table.

**Mayor Lund** stated he put "continue" on the Rubber Research and Wallboard. And it sounds like they would be moving towards the same type of thing for the Blue Waters property.

**Councilmember Bolkcom** stated, why Rubber Research?

**Mayor Lund** stated based that on the conversation there is some contesting of that going on.

**Councilmember Bolkcom** stated to her it has been years and there are issues related to their landscaping which is a whole separate issue compared to their stipulations.

**Dr. Burns** stated he thinks they are being very generous with Wallboard. He does not necessarily think it hurts to table it, but he does not think there is any way they want to extend this special use permit. They have delayed and delayed and he thinks staff has pointed out that they have already really lost their special use permit. They have defaulted on it by their inaction. It gives them encouragement to table it and, admittedly, it probably brings them in here to argue with them about it.

**Councilmember Bolkcom** stated she was going to make it part of the discussion item what she planned for staff to do. She would like staff to talk to the owner and not the manager and explain in detail again why the special use permit does not exist and develop a plan of how they are going to come into compliance and that they will have to come forward if they do not get this exterior storage taken care of. Does it seem reasonable as long as they have a plan with the actual timeline of September 2012 that they would have to have another special use permit? Council will revoke their special use permit at the next meeting and they still have to have a plan to be in compliance.

**Dr. Burns** stated he is not sure what they would gain by allowing them to continue the special use permit.

**Councilmember Bolkcom** stated they are not going to. They are going to revoke it in two weeks, but we are going to give them an opportunity.

**Mayor Lund** stated he would not go as far as to say they are going to revoke it. That is making somewhat of an assumption. They have had a special use permit for a number of years. They had an agreement in place that is 11-months' old now. If they are going to come in, he is going to say, where is the documentation that they even have a building permit and how soon are they going to get this up. Already they are outside of their latest agreement which is 11 months old. He does not think it is wrong for Council to delay some of these things and give them every opportunity. He sees it as Council giving them another chance at conformance.

**Councilmember Bolkcom** stated she realizes it is a little different than Central Auto Parts and some of the other ones. They did not allow a lot of their businesses to go longer than they probably should have if they really have been following the special use permits. How many times a year do they grant extensions for special use permits, building permits, etc. for two or three years. Maybe it is something they really need to look. They would not have such a long record here if they actually said you do not get an extension unless you are really working on it.

**Mayor Lund** stated this is not to criticize current staff but it seems a little strange there is some gaps for some who have been given a special use permit and there is seemingly a lack of follow-through with some of these cases when they go back as far as 1986. With the advent of computerization there is a much easier way of tracking these things. He knows there is criticism out when people say the City is not enforcing ordinances and the rules uniformly. With that being said, he knows that is probably one-tenth of 1 percent. This is relatively minute compared to those that have followed through.

**Councilmember Barnette** stated two of these sites were going to have 125-foot telecommunications towers. He remembered the discussion quite a number of years ago where the City was required to provide, was it 10 towers? He asked whatever happened to the sites where these towers were going to go. Did they replace them at some other site?

**Ms. Jones** replied, the City does have designated sites in the Code where they are allowed to put towers without a special use permit. These were not sites that were on that list.

**MOTION** by Councilmember Bolkcom to close the public hearing on SP #87-16, SP #86-04, SP #87-21, SP #88-01, SP #07-06, SP #03-07, SP #08-01, and SP #05-04. Seconded by Councilmember Barnette.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY AND THE PUBLIC HEARING WAS CLOSED AT 9:44.**

**MOTION** by Councilmember Bolkcom to table SP #03-24 and SP #10-03 to the August 23, 2010, City Council meeting. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**9. Resolution Revoking Special Use Permit, SP #87-16, for Rubber Research Elastomerics, Inc., to Have Exterior Storage of Materials and Equipment in an M-2 Zoning District, Generally Located at 4500 Main Street (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-47. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**10. Resolution Revoking Special Use Permit, SP #03-24, for Wallboard, Inc., to have Exterior Storage of Materials in an M-2 Zoning District, Generally Located at 5346 Industrial Boulevard (Ward 3).**

**MOTION** by Councilmember Bolkcom tabling the Resolution Revoking Special Use Permit, SP #03-24, for Wallboard, Inc., to the August 23, 2010, City Council Meeting. Seconded by Councilmember Barnette.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**11. Resolution Revoking Special Use Permit, SP #86-04, for KMR Industries to Have Exterior Storage of Materials and Equipment in an S-3 Zoning District, Generally Located at 55 – 77<sup>th</sup> Avenue N.E. (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-48. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 12. Resolution Revoking Special Use Permit, SP #87-21, for CSM Properties, Inc., to Have Exterior Storage of Materials and Equipment in an M-2 Zoning District, Generally Located at 500 – 73<sup>rd</sup> Avenue N.E. (Ward 1).**

**MOTION** by Councilmember Varichak adopting Resolution No. 2010-49. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 13. Resolution Revoking Special Use Permit, SP #88-01, for AB Systems, Inc., to have Exterior Storage of Materials and Equipment in an M-1 Zoning District, Generally Located at 1130 – 73<sup>rd</sup> Avenue N.E. (Ward 2).**

**MOTION** by Councilmember Varichak adopting Resolution No. 2010-50. Seconded by Councilmember Bolkcom.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 14. Resolution Revoking Special Use Permit, SP #07-06, for Global Health Ministries, to Have Limited Outdoor Storage of Shipping Containers in an S-3 Zoning District, Generally Located at 7831 Hickory Street N.E. (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-51. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 15. Resolution Revoking Special Use Permit, SP #03-07, for RJ Ryan Construction Co., Inc., for a Rock Crushing Facility in an M-3 Zoning District, Generally Located at 8170 Hickory Street N.E. (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-52. Seconded by Councilmember Barnette.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 16. Resolution Revoking Special Use Permit, SP #08-01, for Pro Source Technologies for a 125-Foot Telecommunications Tower in an M-3 Zoning District, Generally Located at 8170 Hickory Street N.E. (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-53. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 17. Resolution Revoking Special Use Permit, SP #05-04, for Sprint to Install a 125-Foot Telecommunications Tower in an M-3 Zoning District, Generally Located at 8290 Min Street N.E. (Ward 3).**

**MOTION** by Councilmember Bolkcom adopting Resolution No. 2010-54. Seconded by Councilmember Barnette.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

- 2. Resolution Approving an Amendment to the Contract for Curbside Recycling with Allied Waste Services.**

**Councilmember Bolkcom** stated we are doing the change in the 50/50 to 60/40 because they are going to extend their agreement. She asked why we switched.

**William Burns**, City Manager, said most of them are trying to get out of revenue sharing altogether. In fact, the ones doing the single sort are getting out of it altogether. In light of what staff is seeing in the hauling environment, we think the 60/40 is a very reasonable proposal.

**Mayor Lund** stated he had already had an expectation they were going to lose it all. He was real surprised it was 60/40.

**Councilmember Bolkcom** asked because of the increase, Council will have to pass the resolution related to the recycling because that will not take place until 2011.

**Dr. Burns** stated they would have to pass the resolution related to recycling as part of our fee increases during the budgetary process.

**Councilmember Bolkcom** asked but that fee does not increase until 2011.

**Dr. Burns** stated it would not go into effect until April 2011.

**Councilmember Bolkcom** stated our Environmental Quality and Energy Commission is working on this. The City really does not see itself going through any type of organized collection for at least a year, so we really are not hurting our chances in any way?

**Dr. Burns** replied correct. We are keeping our options open.

**Councilmember Bolkcom** asked Attorney Knaak if they can do this because otherwise they would be going out for an RFP.

**Attorney Knaak** replied yes, they have the discretion to extend the contract in this matter.

**Councilmember Bolkcom** asked if we were not doing that, we would probably have to go out for an RFP.

**Attorney Knaak** replied, no.

**Councilmember Barnette** stated they did not get a request from other haulers to bid on this.

**Dr. Burns** replied, no, they never expected to have another hauler agree to this.

**Attorney Knaak** stated technically because this is a service contract, the City does not have to bid it as such. That is just best practice.

**Councilmember Bolkcom** asked the City Attorney, he is telling them that best practice is okay not to do it here because they are doing the study?

**Attorney Knaak** replied he is giving them the legal answer that under the circumstances, this is an appropriate action for them to take.

**MOTION** by Councilmember Bolkcom to adopt Resolution No. 2010-45. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**4. Claims.**

**Councilmember Bolkcom** said on the first couple of pages it says, "July Purchases." She believed they are probably all related to the liquor store.

**William Burns**, City Manager, said he thinks they are.

**Councilmember Bolkcom** stated the entries do not say that. Maybe next time it would be appropriate. Regarding the entry for the Suites Hotel and Waterfront, it looks like it is for something that is happening in September. Is that someone who is going to a conference and they had to prepay? It is dated July 29, 2010, for \$658.98.

**Dr. Burns** stated it is NWAA conference and is related to certification of the Water Treatment Plant for Jason Wiley and Kory Jorgensen. Typically the City does not pay for conferences unless they are related to certification and licensing.

**Councilmember Bolkcom** stated and again that might be something that might be more easily clarified so she does not have to ask these questions. She said on Page 6 is says “Bolt” \$623.

**Dr. Burns** stated he would have to get a response for her.

**Councilmember Bolkcom** asked on Page 8 for the ball field light, is that not a capital improvement because it is \$1,400?

**Dr. Burns** replied, he did not think so because it was a repair. It is a replacement of a light pole at Community Park.

**Councilmember Bolkcom** asked what does it come under?

**Dr. Burns** stated it comes out of Operations.

**Councilmember Bolkcom** asked what pushes it the other direction?

**Mayor Lund** stated if they were probably replacing the entire lighting system.

**Councilmember Bolkcom** referred to the capital improvement work they are doing for the lift at the Public Works is different because it is broken, too? She is just trying to understand.

**Dr. Burns** stated one is an outlay item. It is not a capital improvement. It is an operating item. Only it comes out of the water and sewer fund. The entry for the ball field would be out of the general fund.

**Councilmember Bolkcom** asked if t would not come out of the Parks and Recreation fund?

**Dr. Burns** replied, no it would come out of the Public Works fund because they maintain the parks. Recreation runs the programming.

**Councilmember Bolkcom** stated but they have a capital outlay related to tennis courts, etc.

**Dr. Burns** replied, no, the tennis courts are funded by Parks capital funding; but they are not funded out of their general fund account.

**Councilmember Bolkcom** asked on page 9, it says “Metro Sales.”

**Dr. Burns** replied that is for copier usage.

**Mayor Lund** stated does that mean those copiers are leased?

**Dr. Burns** replied, they are leased.

**Councilmember Bolkcom** asked regarding “Driving Schedule” on Page 10, Minnesota Highway Safety and Research, what is that?

**Dr. Burns** replied he is not sure what that would be.

**MOTION** by Councilmember Bolkcom to adopt the Claims. Seconded by Councilmember Varichak.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MOTION CARRIED UNANIMOUSLY.**

**18. Informal Status Reports.**

**Councilmember Varichak** stated the parties she visited on Night to Unite were very welcoming. A lot of people were out.

**Councilmember Bolkcom** stated there were 88 people at one in Logan Park.

**ADJOURN.**

**MOTION** by Councilmember Barnette, seconded by Councilmember Varichak, to adjourn.

**UPON A VOICE VOTE, ALL VOTING AYE, MAYOR LUND DECLARED THE MEETING ADJOURNED AT 11:05 P.M.**

Respectfully submitted by,

Denise M. Johnson  
Recording Secretary

Scott J. Lund  
Mayor