

**AGENDA
MAPLE PLAIN CITY COUNCIL – WORKSHOP
MAPLE PLAIN CITY HALL
MONDAY, OCTOBER 13, 2014
5:30 PM**

- 1. CALL TO ORDER**
- 2. ADOPT AGENDA**
- 3. VACANCY IN THE OFFICE OF MAYOR**
- 4. POTENTIAL PAVING OF RAINBOW PARK TRAIL**
- 5. POTENTIAL AED DONATION TO HEARTSAFE**
- 6. COMPOSTING ON PRIVATE PROPERTY**
- 7. METRO WEST INSPECTIONS**
 - A. Update on Apartment Inspections**
- 8. OTHER BUSINESS**
 - A. Move to Discovery Center**
 - B. Part-Time Seasonal Help**
- 9. ADJOURNMENT**

Memorandum

To: Mayor and City Council Members
From: Tessia Melvin, City Administrator
Date: October 13, 2014
Re: Vacancy of the Office of Mayor

A. BACKGROUND

Councilmember DeLuca asked about the absence of the Mayor. Melvin reported that in 2014, the Mayor had attended 40% of the meetings and has not been present since July 14. The Council discussed this issue as it affects how the City does business and the appointments of Councilmembers. Melvin added that several residents have expressed their concern about a four-member Council.

Carson reported that the State statute MS 1945 states:

Subd. 2a. **Vacancy.** Except as otherwise provided in subdivision 2b, a vacancy in an office shall be filled by council appointment until an election is held as provided in this subdivision. In case of a tie vote in council, the mayor shall make the appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next city election and the appointed person shall serve until the qualification of the successor elected at a special election to fill the unexpired portion of the term. If a vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor. The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as a regular city election.

Subd. 2b. **Inability or refusal to serve.** A vacancy in the office of mayor or councilmember may be declared by the council when the officeholder is unable to serve in the office or attend council meetings for a 90-day period. If any of the preceding conditions occurs, the council may, after it has by resolution declared a vacancy exit, fill the vacancy at a regular or special council meeting for the remainder of the unexpired term, or until the person is again able to resume duties and attend council meetings, whichever is earlier. When the person is again able to resume duties and attend council meetings, the council shall by resolution remove the temporary officeholder and restore the original officeholder.

There was much discussion on this topic as the Council understands the recent negative publicity of the City, the needs of the residents and the work that must continue. The Council asked Carson to prepare a resolution declaring a vacancy in the office of Mayor, as the 90-day rule will be in affect beginning October 12.

B. UPDATE

Carson prepared a Resolution for the October 13 Meeting per the request of the Council

RESOLUTION NO. 14-1013-01_____

**A RESOLUTION DECLARING A VACANCY IN THE OFFICE OF MAYOR,
CITY OF MAPLE PLAIN**

WHEREAS, in March of 2014, the Maple Plain City Council passed Resolution No. 14-0310-04 censuring Mayor Roger Hackbarth for his behavior towards staff and council; and

WHEREAS, in August of 2014, the Maple Plain City Council passed Resolution No. 14-0811-01 further censuring Mayor Roger Hackbarth and significantly limiting his mayoral duties; and

WHEREAS, in September of 2014, the Maple Plain City Council passed Resolution No. 14-0922-01 removing Mayor Hackbarth from representation on the Economic Development Authority of Maple Plain (EDA); and

WHEREAS, from January, 2014 through September of 2014 Mayor Hackbarth has attended only 40% of all city meetings, regular council meetings, special council meetings and council workshops; further, Mayor Hackbarth has not attended a Maple Plain meeting of any kind since July 14, 2014; and

WHEREAS, Mayor Hackbarth has offered several reasons for his absences including various medical conditions that purport to limit his ability to attend meetings; and

WHEREAS, that on several of the dates when Mayor Hackbarth offered medical reasons for being absent, individual council members observed Mayor Hackbarth performing maintenance work such as mowing property within the City; that this work being performed by the Mayor coincided with meeting dates and was observed before and after meetings on several of the dates that medical absences were offered by the Mayor; and

WHEREAS, the Maple Plain City Council has functioned essentially as a four person council for much of 2014; that members of the public have commented that the City should have a five (5) person council to properly function; that it is in the public interest for the City to operate as intended with five elected or appointed individuals.

NOW, THEREFORE, the Maple Plain City Council **RESOLVES**, as follows:

- 1) Mayor Roger Hackbarth's conduct in absenting himself from city council meetings, in terms of the amount of time missed, and while at the same time conducting other work, amounts to an abandonment of his office as Mayor.
- 2) The Maple Plain City Council hereby finds that Mayor Hackbarth has abandoned the office of Mayor.

- 3) The Maple Plain City Council hereby declares a vacancy in the office of Mayor for the City of Maple Plain.

FURTHER, the Maple Plain City Council **RESOLVES** that the office of Mayor and any vacant council seat shall be filled according to law at the earliest possible time.

This resolution passed by The Maple Plain City Council this ____ day of _____, 2014.

Jerry Young, Acting Mayor

Mike DeLuca, Councilmember

Dave Eisinger, Councilmember

Justin McCoy, Councilmember

ATTEST:

Tessia Melvin, City Administrator

Memorandum

To: Mayor and City Council Members
From: Tessia Melvin, City Administrator
Date: October 13, 2014
Re: Potential Paving of Rainbow Park Trail

BACKGROUND

The City Council asked City Engineer, Dan Boyum, at the September 22 workshop to get a paving estimate for the trail at Rainbow Park. Several residents have requested this of the Council and a current petition is being conducted by residents asking for this trail to be paved. The paved trail would be maintained during winter months to enable residents access throughout the year.

COSTS

City Engineer got a price quote from the subcontractor for the Rainbow Avenue and Main Street West Utility project. See details below:

The costs below are for the outer loop of the trail (2580') with a 2.5" bituminous base.

Paving 2580 x \$17.85 per foot = \$46,053

Grading and topsoil 580' x \$4.00 = \$10,320

Seed = \$1,966.67

$\$58,339.67 \times 1.05 \% = \$61,256.65$

RECOMMENDATIONS

Staff is looking for direction from the Council if they would like to proceed with this project. Staff can get additional quotes.

Memorandum

To: Mayor and City Council Members
From: Tessia Melvin, City Administrator
Date: October 13, 2014
Re: Potential Donation of AED

BACKGROUND

Staff met with the HeartSafe representatives to discuss the current AED located in the City Hall. The Discovery Center currently has an AED, so the City will not need to bring their AED to the new City Hall location. The representatives are asking what the City plans to do with their current AED.

UPDATE

Staff discussed possibly donating the AED to HeartSafe. This would allow them to potentially locate it in a business that does not have one and help distribute the AEDs throughout the City of Maple Plain.

RECOMMENDATIONS

Staff is looking for direction from the Council on how they would like to proceed with this. City Attorney, Jeff Carson, has been contacted on this matter.

Memorandum

To: Mayor and City Council Members
From: Tessia Melvin, City Administrator
Date: October 13, 2014
Re: Composting on Private Properties

BACKGROUND

Staff has received several calls from a property owner on Three Oaks Avenue about her neighbor's yard. Staff did write a nuisance letter to the property owner regarding a brush pile, which was removed. Currently the property owner is complaining about a compost pile located behind the garage of her neighbor's property. The City Planner and Director of Public Safety did inspect the property and did not feel that the pile was against the ordinance. The ordinance pertaining to this issue is included.

RECOMMENDATIONS

Staff is looking for Council interpretation on this issue.

NUISANCES

' **93.15 PUBLIC NUISANCE DEFINED.**

Public nuisance is a thing, act, or use of property which shall:

(A) Annoy, injure, or endanger the health, safety, comfort, or repose of the public;

(B) Offend public decency;

(C) Unlawfully interfere with the use of or obstruct or tend to obstruct or render dangerous for passage a public water, park, square, street, alley, or highway;

(D) Depreciate the value of the property of the inhabitants of the City of Maple Plain or of a considerable number thereof; or

(E) In any way render the inhabitants of the City of Maple Plain or a considerable number thereof insecure in life or in use of property.

(Prior Code ' 43.01) (Ord. 201, passed 4-11-2005)

' **93.16 PROPERTY MAINTENANCE DEFINED.**

To prohibit the creation or continuation of general degradation of dwellings and properties, building structures in all zoning areas must be maintained in the condition that they do not pose a threat to public health or safety. Conformance to all building codes is required.

(Prior Code ' 43.02) (Ord. 201, passed 4-11-2005)

' **93.17 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED PROPERTY. Deteriorated, wrecked, or derelict property in unusable condition, which has no apparent value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements, and shall include, machinery, refrigerators, washing machines, plumbing fixtures, furniture, cut trees, branches, building materials, general rubbish, tools, benches, deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats as defined in ' 91.02, abandoned vehicles, or any other similar articles in the condition.

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APPROVED DRIVEWAY. An off street area of asphaltic, concrete, or gravel surfacing which provides access to required off street parking areas.

CITY. The City of Maple Plain, in Hennepin County.

CITY COUNCIL. The City Council of the City of Maple Plain, Minnesota.

PERSON. Includes any person, firm, or corporation and the singular shall include the plural. Where references are made herein to particular officers, councils, boards, or agencies are those of the City of Maple Plain.

PRIVATE PREMISES. Any premises for which ownership is not within the category described as public premises in this section, and shall include, but not be limited to, that property on which the owner has a place of business or a residence.

(Prior Code ' 43.03) (Ord. 201, passed 4-11-2005; Am. Ord. 213, passed 8-14-2006)

93.18 PUBLIC NUISANCE AFFECTING HEALTH, SAFETY, COMFORT, OR REPOSE.

The following are hereby declared to be public nuisances affecting health, safety, comfort, or repose:

(A) Privy vaults and garbage cans which are not fly-tight;

(B) Dumping the contents of any cesspool, privy vault, or garbage can except at places authorized by law; or allowing any cesspool, or individual sewage system to overflow in any manner;

(C) All noxious weeds, tall grasses, and other rank growths:

(1) It shall be the responsibility of all homeowners and landowners to cut grass in excess of the following height and to maintain real property within the city at or below this level of growth:

(a) Residential, developed land - 12 inches of growth; and

(b) Commercial/industrial, developed areas - 12 inches of growth.

(2) (a) Should the owner fail to cause removal of the weeds, tall grasses, or other rank growths, the city may cause and shall assess the cost of the removal to the property, collectible with taxes through Hennepin County.

(b) Because weeds, tall grasses and other rank growths create an immediate and increasing nuisance, the city is authorized to cause their removal after 7 days written notice to the property owner or occupant. If the property is unoccupied, the notice shall be posted at the property for the same period of time.

(D) Construction rubbish and miscellaneous debris must be removed from properties in all zoning districts within 14 days of project completion. A special circumstance may be filed with the City Administrator/Clerk at the Maple Plain City Hall;

(E) Cut brush shall not remain on properties in all zoning districts longer than 14 days after being cut. A special circumstances exemption may be filed with the City Administrator/Clerk at the Maple Plain City Hall;

(F) Growing brush that becomes a nuisance to adjoining property owners or that obstructs driver vision to right-of-way entry and exit points within 30 feet must be removed by the property owner;

(G) An accumulation of tin cans, bottles, trash or debris of any nature or description; and the throwing, dumping or depositing of any dead animals, manure, garbage, waste, decaying matter, rubbish, tin cans, or other material or debris of any kind on private property;

(H) Dense smoke, noxious fumes, gas or soot, or cinders in unreasonable quantities;

(I) Offensive trades and businesses as defined by statute or code not licensed as provided by law;

(J) All public exposure of persons having a contagious disease;

(K) The distribution of samples of medicines or drugs unless the samples are placed in the hands of an adult person by someone properly licensed; and

(L) All other acts, omissions of acts, occupations, and uses of property which are deemed by the Board of Health to be a menace to the health of the inhabitants of the City of Maple Plain or a considerable number thereof.

(Ord. 201, passed 4-11-2005; Am. Ord. 236, passed 6-22-2009) Penalty, see ' 10.99

' 93.19 PUBLIC NUISANCE AFFECTING PEACE AND SAFETY.

(A) *Generally.* The following are declared to be nuisances affective public peace and safety.

(B) *Specifically.*

(1) All snow and ice not removed from public sidewalks, trailways, bikeways and walkways within 12 hours after the snow has ceased to be deposited thereon. It shall be the responsibility of the property owner to remove all snow and ice from the public sidewalks, trailways, bikeways and walkways adjacent to their property. Should the owner fail to cause removal of the snow and ice, the city may cause the snow and ice to be removed and shall assess the cost of the removal to the property, collectible with taxes through Hennepin County;

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(2) All wires which are strung above the surface of any public street or alley, other than utility wires or wires strung by an approved public franchise;

(3) Abandoned buildings/structures and grounds must be maintained to prohibit entry by the general public. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding 2 of their original value or which are so situated as to endanger the safety of the public. If reconstruction is planned, the structure must be brought into conformance with all building codes within a 12-month period;

(4) All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law or code;

(5) All use or display of fireworks except as provided by law or code;

(6) All buildings and all alterations to buildings made or erected in violation of Fire Code concerning manner and materials and construction;

(7) Obstructions and excavations affecting the ordinary use of the public streets, alleys, sidewalks, or public grounds, except under the conditions as are provided by code, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in the manner as to attract minor children;

(8) Radio aerials strung or erected in any manner except that provided by law or code;

(9) The piling, storing, or keeping of old machinery, wrecked or junked vehicles, and other junk or debris;

(10) The use of property abutting on a public street or sidewalk, or any use of a public street, or sidewalk, which causes large crowds of people to gather, obstructing traffic and the free use of public streets or sidewalks;

(11) All hanging signs, awnings, and other similar structures over public streets or sidewalks, or so situated as to endanger public safety, not constructed and maintained as provided by law or code, or without proper permit;

(12) The allowing of rain, water, ice, or snow to fall from any building on any public street or sidewalk or to flow across any public sidewalk;

(13) All dangerous, unguarded machinery, equipment, or other property in any public place, or so situated or operated on private property as to attract minor children;

(14) Placing items for sale in the rights-of-way is prohibited. Only the homeowner or resident may place items for sale in the front yard setback area;

(15) Throwing, dropping, or releasing printed matter, paper, or any other material or objects over and upon the city from an airplane, balloon, or other aircraft, or in such a manner as to cause the material to fall on land in the city;

(16) Placing entrance culverts, or doing any act which may alter or affect the drainage of public streets, alleys, or sidewalks without proper permit;

(17) Making repairs to motor vehicles, or tires in public streets or alleys: excepting only emergency repairs when it will not unduly impede or interfere with traffic;

(18) Throwing, placing, depositing, or burning leaves, trash, lawn clippings, weeds, grass, or other material in the streets, alleys, gutters, or drainage swales;

(19) Fences of all types must be maintained and of sturdy construction throughout the length of the fenced area. If in disrepair, or damaged, the fence must be repaired or removed. For multi-family, commercial, or industrial structures where large garbage containers are used, the containers must be contained behind a fence enclosure with a gate containing a positive closure devise;

(20) Erecting, painting, or placing of unauthorized traffic signs or advertising signs in streets, or alleys, or on sidewalks;

(21) All unnecessary interference and disturbance of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof;

(22) All other conditions, acts, or things which are liable to cause injury to the person or property of anyone;

(23) The owner or occupant of any land within the city shall be deemed to have committed a public nuisance if the owner or occupant fails to maintain the land in the manner so as to prevent sand, soil, dirt, dust, or debris of any kind or nature from being transported by the wind or air currents from the land to the property of another in the quantities as to constitute a detriment to the property or so as to endanger the health, welfare, safety, or comfort of the public or any person. The owner or occupant of any land in the city is charged with the duty and responsibility of taking whatever steps that may be necessary, such as seeding, paving, blacktopping, sprinkling, or the other means as may be lawful to prevent the soil, dirt, dust, or debris from being transported by wind, air currents, or otherwise from its property to the property of another;

(24) It shall be unlawful for any person to place or allow a barrier in the existing rights-of-way; and

(25) Luminaries or lights situated to endanger public safety, impede vision or create night lighting, which were not constructed and maintained as provided by law or code, or without proper limit.

(Ord. 201, passed 4-11-2005; Am. Ord. 204, passed 11-14-2005; Am. Ord. 242, passed 2-22-2010) Penalty, see ' 10.99

Memorandum

To: Mayor and City Council Members
From: Tessia Melvin, City Administrator
Date: October 13, 2014
Re: Metro West Inspections

BACKGROUND

Metro West Inspections tried to schedule two apartment inspections. One property owner complied and the other did not and has not responded to the City's letter. The City had not had apartment inspections since 2012.

RECOMMENDATIONS

Staff is looking for direction from the Council on how they would like to proceed with this.