

**MINUTES**  
**MAPLEWOOD CITY COUNCIL**  
7:00 p.m., Monday, August 26, 2013  
Council Chambers, City Hall  
Meeting No. 15-13

**A. CALL TO ORDER**

A meeting of the City Council was held in the City Hall Council Chambers and was called to order at 7:00 p.m. by Mayor Rossbach.

**B. PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

Will Rossbach, Mayor	Present
Robert Cardinal, Councilmember	Present
Rebecca Cave, Councilmember	Present
Kathleen Juenemann, Councilmember	Present
Marvin Koppen, Councilmember	Present

**D. APPROVAL OF AGENDA**

Councilmember Cave moved to approve the agenda as submitted.

Seconded by Councilmember Koppen                      Ayes – All

The motion passed.

**E. APPROVAL OF MINUTES**

**1. Approval of August 5, 2013 City Council Workshop Minutes**

Change Approval of Agenda to reflect seconded by Mayor Rossbach.

Councilmember Juenemann moved to approve the August 5, 2013 City Council Workshop Minutes as amended.

Seconded by Councilmember Koppen                      Ayes – All

The motion passed.

**2. Approval of August 12, 2013 City Council Workshop Minutes**

Councilmember Juenemann moved to approve the August 12, 2013 City Council Workshop Minutes as submitted.

Seconded by Councilmember Koppen                      Ayes – All

The motion passed.











The motion passed.

**2. Approval of First Reading of an Ordinance Amending the Xcel Energy Franchise Fee and Waive Second Reading**

City Attorney Kantrud gave the staff report and answered questions of the council. Jake Sedlacek, from Xcel Energy was present, addressed and answered questions of the council.

Councilmember Juenemann moved to approve the first reading of Xcel Energy Franchise Fee Ordinance and Waive the Second Reading.

ORDINANCE 931

AN ORDINANCE IMPLEMENTING AN ELECTRIC SERVICE FRANCHISE FEE ON NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF MAPLEWOOD.

THE CITY COUNCIL OF THE CITY OF MAPLEWOOD DOES ORDAIN:

**SECTION 1.** The City of Maplewood Municipal Code is hereby amended to include reference to the following Special Ordinance.

**Subdivision 1. Purpose.** The Maplewood City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide electric services within the City of Maplewood.

- (a) Pursuant to City Ordinance, a Franchise Agreement between the City of Maplewood and Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, the City has the right to impose a franchise fee on Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns, in an amount and fee design as set forth in Section 9 of the Northern States Power Company Franchise and in the fee schedule attached hereto as Schedule A.

**Subdivision 2. Franchise Fee Statement.** A franchise fee is hereby imposed on Northern States Power Company, a Minnesota Corporation, d/b/a Xcel Energy, its successors and assigns, under its electric franchise in accordance with the schedule attached here to and made a part of this Ordinance, commencing with the Xcel Energy December, 2013 billing month.

This fee is an account-based fee on each premise and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter at a single premise, but only one account, only one fee shall be assessed to that account. If a premise has two or more meters being billed at different rates, the Company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premise. If the Company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premise. In the event any entities covered by this ordinance have more than one premise, each premise (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of

billing for energy used at all similar premises in the city will control.

**Subdivision 3. Payment.** The said franchise fee shall be payable to the City in accordance with the terms set forth in Section 9 of the Franchise.

**Subdivision 4. Surcharge.** The City recognizes that the Minnesota Public Utilities Commission may allow Company to add a surcharge to customer rates of city residents to reimburse Company for the cost of the fee.

**Subdivision 5. Record Support for Payment.** Xcel Energy shall make each payment when due and, if required by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

**Subdivision 6. Enforcement.** Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 of the Franchise Agreement.

**Subdivision 7. Effective Date of Franchise Fee.** The effective date of this Ordinance shall be after its publication and ninety (90) days after the sending of written notice enclosing a copy of this adopted Ordinance to Xcel Energy by certified mail. Collection of the fee shall commence as provided above.

Passed and approved August 26, 2013.

Seconded by Councilmember Koppen

Ayes – All

The motion passed.

**3. Denial of a Land Use Plan Amendment and Rezoning Request for Tyrus Land Company, St. Clair Hills, Carver Avenue and Sterling Street**

Senior Planner Ekstrand gave the staff report and answered questions of the council. Jamie Jensen, of Tyrus Land Company was present and addressed the council to give additional information about the development of St. Clair Hills, Carver Avenue and Sterling Street.

Mayor Rossbach moved to:

1. Adopt the findings as provided by staff as council written findings as part of the decision being made and staff communicate those findings to the applicant in writing by certified mail.
2. Deny the requested land use plan amendment from R/LDR (rural/low density residential) to LDR (low density residential) for a single-dwelling development proposal located at the southeasterly corner of Sterling Street and Carver Avenue. This recommendation for denial is based on the following reasons:
  - a. The city council guided the subject properties as R/LDR on January 25, 2010 with the intention of limiting development impact and housing density in order to preserve and enhance the ecological and aesthetic character of the property.

- b. Nothing has changed in the neighborhood or on these properties which would warrant changing their land use designation to a higher density.
  - c. Reclassifying the subject properties to LDR, a higher density, would create an inconsistency between these parcels and the surrounding acreage which is also guided R/LDR in the comprehensive plan like the subject properties.
  - d. A guiding principle of the land use plan is that “whenever possible, changes in types of land use should occur so that similar uses front on the same street or at borders of areas separated by major man-made or natural barriers.” A change to the land use plan to a higher density would be contrary to this objective.
3. Deny the requested rezoning from R1R (rural conservation dwelling district) to R1 (single dwelling) for the development proposal located at the southeasterly corner of Sterling Street and Carver Avenue. This recommendation for denial is based on the following reasons:
- a. The city council zoned the subject properties as R1R (rural conservation dwelling district) with the intention of limiting development impact and housing density in order to preserve and enhance the ecological and aesthetic character of the property. Rezoning this land to R1 (single dwelling residential) would be contrary to that goal and eliminate the intended environmental controls.
  - b. Nothing has changed in the neighborhood or on these properties which would warrant rezoning this property to allow a higher density.

Seconded by Councilmember Juenemann

Ayes – All

The motion passed.

**4. Approval of a Resolution for a Conditional Use Permit Revision for a Parking Lot Expansion, Bruentrup Heritage Farm, 2170 County Road D**

Senior Planner Ekstrand gave the staff report and answered questions of the council. Bob Jensen, President of the Maplewood Area Historical Society was present and addressed the council to give additional information about the reinforced-turf parking lot expansion.

Councilmember Juenemann moved to approve the conditional use permit revision resolution for the Bruentrup Farm, located at 2170 County Road D East, to allow the addition of a 24-stall reinforced turf parking lot for overflow parking. Approval is based on the findings required by ordinance and subject to the following conditions (additions are underlined):

1. Repeat this review in two years if the city has not issued a building permit for this project.
2. Before the city issues a building permit, the city engineer shall complete the necessary grading, drainage, utility and erosion control plans.
3. The applicant or contractor shall complete the following before occupying the buildings:
  - a. Replace property irons that are removed because of this construction.
  - b. Install reflectorized stop signs at all exits, a handicap-parking sign for each handicap-parking space and an address on the building.

- c. Construct a trash dumpster enclosure for any outside trash containers. The enclosures must be 100 percent opaque, match the color of the buildings and have a closeable gate that extends to the ground. If the trash container is not visible to the public it does not have to be screened.
    - d. Install site-security lighting as required by the code. The light source, including the lens covering the bulb, shall be concealed so the light source is not visible and so it does not cause any nuisance to drivers or neighbors.
  4. If any required work is not done, the city may allow temporary occupancy if the city determines that the work is not essential to the public health, safety or welfare.
  5. All work shall follow the approved plans. The director of community development may approve minor changes.
  6. Update the January 2008 Bruentrup Heritage Farm Master Plan to include correct site size, site conditions, parking references, and purpose and intent of uses including any large non-historical fundraising events.
  7. When the parking lot located east of the site cannot accommodate parking for an event (i.e., events where there are more than 84 people based on 4 people per vehicle in the 21 space parking lot located to the east of the site) the society must supply off-site parking to accommodate the events.
  8. Off-site parking at Salvation Army (78 parking spaces at 2080 Woodlyn Avenue):
    - a. The society must supply the city with a signed parking agreement between the society and the owners of the Salvation Army for the use of the parking lot.
    - b. Transportation of guests in a wagon pulled by a tractor to and from the Salvation Army parking lot (Woodlyn Avenue) on a trail through the Prairie Farm Neighborhood Preserve is only allowed during daytime hours.
    - c. The society must ensure safe pedestrian crossing at the intersection of Woodlyn Avenue and Ariel Street for visitors parking in the Salvation Army parking lot. Safe pedestrian crossing can involve temporary signs or crossing guards.
  9. Off-site parking at Harbor Pointe (278 parking spaces at 2079 to 2127 County Road D):
    - a. The society must supply the city with a signed parking agreement between the society and the owners of Harbor Pointe which allows the use of this parking lot.
    - b. The society must ensure safe pedestrian crossing at the intersection of County Road D and Ariel Street for visitors parking in the Harbor Pointe parking lot. Safe pedestrian crossing can involve temporary signs or crossing guards.
  10. Any large scale music proposed for any event on the site (such as DJs and bands) should be limited to inside the barn.
  11. Use of the farm must comply with the city's noise ordinance which requires that no disturbing noises be generated before 7 a.m. and after 7 p.m.

12. The society will work with Maplewood city staff to coordinate the management of the oak savanna located west of the entry drive within the Bruentrup Heritage Farm site with the intent of continuing to manage that portion of the site as oak savanna.
13. The barn must be posted with a maximum occupancy of 290 people.

Conditions Which Apply to the Subleasing of the Site by the Society for Large Non-Historical Fundraising Events:

14. Subleased large non-historical fundraising events are allowed six times per year.
15. Subleased large non-historical fundraising events are allowed from 10 a.m. to 10 p.m.
16. Parking for subleased large non-historical fundraising events in which alcohol will be served is limited to the parking lot on the east side of the site and the Harbor Pointe parking lot located about a block west of the site on the north side of County Road D.
17. Maximum number of occupants allowed on site for large non-historical fundraising events in which alcohol will be served is limited to 290 people.
18. Appropriate liquor licenses must be obtained prior to serving alcohol on the site.
19. The society must obtain the appropriate liability coverage for large non-historical fundraising events which holds the city harmless.
20. A rental agreement must be approved by the city which dictates hours of use, maximum number of people, location of parking, etc.

Conditions Relative to the Proposed Reinforced-Turf Parking Plan:

21. The site and landscaping plan dated July 17, 2013, showing the proposed turf parking plan is approved.
22. Minor revisions may be approved by staff.
23. Construction shall begin on the proposed turf parking lot within one year or this approval shall end. The city council may extend this approval for one additional year.
24. The city engineer, police chief and fire chief shall review the plans, as required by ordinance, before construction on the turf parking lot can begin.
25. Screening must be provided, as proposed, to buffer the proposed parking lot from the neighbor to the east. This screening shall be completed before the parking lot may be used, unless the applicant provides escrow to guarantee its completion. Escrow shall be, as is typically required, in the amount of 150 percent of the cost of installing the landscaping.

RESOLUTION 13-8-963  
PLANNED UNIT DEVELOPMENT REVISION RESOLUTION

WHEREAS, the Maplewood Area Historical Society has applied for a conditional use permit revision to construct a 22-stall reinforced-turf parking lot at the Bruentrup Farm.

WHEREAS, Section 44-17, the off-street parking ordinance requires city council approval of turf parking lots.

WHEREAS, Section 44-1092(1) of the city code requires a conditional use permit for public building uses.

WHEREAS, this permit applies to the property located at 2170 County Road D East. The property identification numbers for this property is:

022922110009

WHEREAS, the history of this conditional use permit revision is as follows:

1. On August 20, 2013, the planning commission held a public hearing. The city staff published a notice in the paper and sent notices to the surrounding property owners. The planning commission gave everyone at the hearing a chance to speak and present written statements. The planning commission also considered the reports and recommendation of city staff. The planning commission recommended that the city council approve this permit.
2. On August 26, 2013, the city council considered reports and recommendations of the city staff and planning commission.

NOW, THEREFORE, BE IT RESOLVED that the city council approve the above-described conditional use permit, because:

1. The use would be located, designed, maintained, constructed and operated to be in conformity with the City's Comprehensive Plan and Code of Ordinances.
2. The use would not change the existing or planned character of the surrounding area.
3. The use would not depreciate property values.
4. The use would not involve any activity, process, materials, equipment or methods of operation that would be dangerous, hazardous, detrimental, disturbing or cause a nuisance to any person or property, because of excessive noise, glare, smoke, dust, odor, fumes, water or air pollution, drainage, water run-off, vibration, general unsightliness, electrical interference or other nuisances.
5. The use would generate only minimal vehicular traffic on local streets and would not create traffic congestion or unsafe access on existing or proposed streets.
6. The use would be served by adequate public facilities and services, including streets, police and fire protection, drainage structures, water and sewer systems, schools and parks.
7. The use would not create excessive additional costs for public facilities or services.
8. The use would maximize the preservation of and incorporate the site's natural and scenic features into the development design.
9. The use would cause minimal adverse environmental effects.

NOW, THEREFORE, BE IT RESOLVED that the city council also determines that the above-described conditional use permit for a reinforced-turn parking lot meets the following criteria:

1. When the need for overflow parking is infrequent or limited to occasional parking events.
2. Where there is already hard-surfaced parking that provides for handicap-accessible parking needs.
3. Where the turf parking lot would meet setback and screening requirements.
4. Where the parking need is seasonal (non winter) so snow plowing is not needed.
5. Where there would be an environmental benefit due to storm water management or meeting shoreland/wetland/flood plain ordinance impact needs.
6. Where the turf-parking plan meets the approval of the city engineer from the standpoint of using proven construction materials engineered for durability and aesthetics.
7. Where the turf-parking plan meets the approval of the police and fire chief from the standpoint of meeting public safety requirements.

Approval is subject to the following conditions:

1. Repeat this review in two years if the city has not issued a building permit for this project.
2. Before the city issues a building permit, the city engineer shall complete the necessary grading, drainage, utility and erosion control plans.
3. The applicant or contractor shall complete the following before occupying the buildings:
  - a. Replace property irons that are removed because of this construction.
  - b. Install reflectorized stop signs at all exits, a handicap-parking sign for each handicap-parking space and an address on the building.
  - c. Construct a trash dumpster enclosure for any outside trash containers. The enclosures must be 100 percent opaque, match the color of the buildings and have a closeable gate that extends to the ground. If the trash container is not visible to the public it does not have to be screened.
  - d. Install site-security lighting as required by the code. The light source, including the lens covering the bulb, shall be concealed so the light source is not visible and so it does not cause any nuisance to drivers or neighbors.
4. If any required work is not done, the city may allow temporary occupancy if the city determines that the work is not essential to the public health, safety or welfare.

5. All work shall follow the approved plans. The director of community development may approve minor changes.
6. Update the January 2008 Bruentrup Heritage Farm Master Plan to include correct site size, site conditions, parking references, and purpose and intent of uses including any large non-historical fundraising events.
7. When the parking lot located east of the site cannot accommodate parking for an event (i.e., events where there are more than 84 people based on 4 people per vehicle in the 21 space parking lot located to the east of the site) the society must supply off-site parking to accommodate the events.
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22. Minor revisions may be approved by staff.
23. Construction shall begin on the proposed turf parking lot within one year or this approval shall end. The city council may extend this approval for one additional year.
24. The city engineer, police chief and fire chief shall review the plans, as required by ordinance, before construction on the turf parking lot can begin.

Seconded by Councilmember Koppen

Ayes – All

The motion passed.

#### **K. AWARD OF BIDS**

1. **East Metro Public Safety Training Center, City Project 09-09, Approval of Resolution Receiving Bids and Awarding of Contract for Bid Package 5 (Burn Building and Burn Tower)**

Assistant City Engineer Love gave the staff report. Fire Chief Lukin answered questions of the council.

Councilmember Cardinal moved to approve the Resolution for the East Metro Public Safety Training Center, City Project 09-09, receiving Bids and Awarding a Contract to Weber Construction for Base Bid (Burn Building) and Alternate 1 (4-Story Tower) for Bid Package 5.

#### RESOLUTION 13-8-964 RECEIVING BIDS AND AWARDING CONTRACT

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA, that the bid of Weber, Inc. in the amount of \$1,518,000.00, is the lowest responsible bid for construction of the Base Bid (burn building) and Alternate 1 (4-story burn tower) for the East Metro Public Safety Training Center: Bid Package 5 – City Project 09-09, and the mayor and city manager are hereby authorized and directed to enter into a contract with said bidder for and on behalf of the city.

The finance director is hereby authorized to make the financial transfers necessary to implement the financing plan for the project as previously approved by council.

Adopted by the council on this 26th day of August, 2013.

Seconded by Councilmember Juenemann                      Ayes – All

The motion passed.

**L. VISITOR PRESENTATION**

None

**M. ADMINISTRATIVE PRESENTATIONS**

**1. Council Calendar Update**

Assistant City Manager Coleman gave the council calendar update.

**2. Commission, Board and Volunteer Event Announcement (No Report)**

Citizen Service Director Guilfoile gave an update to the Commission, Board and Volunteer Appreciation Event that will be held at the Maplewood Community Center on Thursday, September 26<sup>th</sup>.

Citizen Services Director Guilfoile updated the council regarding the Highway 36/English Street interchange grand opening event that will be held on Friday, August 30<sup>th</sup> at 9:00 a.m. at the west end of the Menards parking lot.

**N. COUNCIL PRESENTATIONS**

None

**O. ADJOURNMENT**

Mayor Rossbach adjourned the meeting at 8:27 p.m.