

**Adopted Minutes  
Regular Council Meeting  
March 8, 2011**

Mayor Slavik called a Regular Meeting of the Plymouth City Council to order at 7:00 p.m. in the Council Chambers of City Hall, 3400 Plymouth Boulevard, on March 8, 2011.

COUNCIL PRESENT: Mayor Slavik, Councilmembers Bildsoe, Johnson, Willis, Murdock, Black, and Stein.

ABSENT: None.

STAFF PRESENT: City Manager Ahrens, City Attorney Knutson, Park Director Blank, Fire Chief Kline, Administrative Services Director Portner, Public Works Director Cote, Police Chief Goldstein, Community Development Director Juetten, Recreation Superintendent Evans, Human Resources Director Kone, Transit Coordinator Maciej, and City Clerk Engdahl.

By request of Mayor Slavik, a moment of silence was given for Brooklyn Park Mayor Steve Lampi who recently passed away.

**Plymouth Forum**

Susan Lamb, 4485 Comstock Lane North, encouraged the Council to entertain a domestic partnership registry which other communities are doing. She asked if the Council would be discussing this item this evening. Mayor Slavik replied this specific item isn't on the agenda, but it's mentioned in the Human Rights Commission Work Plan (item No. 8.01) on this evening's agenda.

**Presentations and Public Information Announcements**

**(4.01) Announcement of City Sampler on March 19**

Mayor Slavik announced this year's City Sampler that will be held on March 19 from 9:00 a.m.-Noon at City Hall.

**(4.02) Announcement of Plymouth Metrolink Driver Awards**

Plymouth Advisory Committee on Transit Chair Wosje, Commissioner Bliss, Paul Buharin and Jim Baldwin from First Transit, and Transit Coordinator Maciej announced this year's Metrolink Driver Awards.

## Approval of Agenda

Mayor Slavik switched around item No's. 9.02 and 9.03.

Motion was made by Councilmember Johnson, and seconded by Councilmember Willis, to approve the amended agenda. With all members voting in favor motion carried.

## Consent Agenda

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Johnson, to adopt the Consent Agenda that included the following items:

- (6.01) Proposed minutes from the Regular and Special Meetings of February 8 and Regular Meeting of February 22.
- (6.02) Resolution Approving Disbursements ending February 26, 2011 (Res2011-068).
- (6.03) Resolution Approving Joint Powers Agreement with the State of Minnesota for Acceptance of the DataMaster DMT-G Breath Test Equipment (Res2011-069).
- (6.04) Resolution Amending Cell Phone Policy (Res2011-070).
- (6.05) Resolution Approving Request for Payment No. 3 and Final for the 36<sup>th</sup> Avenue Street Reconstruction Project (8104 – Res2011-071).
- (6.06) Resolution Approving Change Order No. 2 for Plymouth Creek Stream Bank Restoration Project (8128 – Res2011-072).
- (6.07) Resolution Awarding a Contract for the Imperial Hills Lift Station Upgrade (10014 – Res2011-073).
- (6.08) Resolution Accepting Utilities for Rusten Wood Development (2006046 – Res2011-074).
- (6.09) Resolution Designating Municipal State Aid Streets for part of 10<sup>th</sup> Avenue from Nathan Lane to Kilmer Lane, part of Kilmer Lane from 10<sup>th</sup> Avenue to 13<sup>th</sup> Avenue, and part of Carlson Parkway from South City Limits to Gleason Lake Drive (Res2011-075).
- (6.10) Resolution Approving the Application and Allocation of Fiscal Year 2011 Community Development Block Grant Funds (Res2011-076).
- (6.11) Resolution Authorizing Proceeding with 2011 Park Capital Improvement Projects (Res2011-077).

(6.12) Resolution Approving Bids for South Shore Park Playground (Res2011-078).

(6.13) Resolution Amending the 2011 Compensation and Classification Plan (Res2011-079).

(6.14) Resolution Approving an Amended Expense Reimbursement and Travel Policy (Res2011-080).

With all members voting in favor, the motion carried.

### Public Hearings

#### **(7.01) Vacation of Drainage, Utility and Road Easements within the Southwest Quarter of the Northeast Quarter of Section 4-118-22**

Public Works Director Cote reported on the proposed vacation request.

Mayor Slavik opened the public hearing.

Mayor Slavik closed the public hearing.

Motion was made by Councilmember Black, and seconded by Councilmember Bildsoe, to adopt a Resolution Authorizing the Vacation of Drainage, Utility and Road Easements within the Southwest Quarter of the Northeast Quarter of Section 4-118-22 (Res2011-081). With all members voting in favor, the motion carried.

### General Business

#### **(8.01) Human Rights Commission's Annual Report and Work Plan**

City Manager Ahrens reported on the proposed 2011 Work Plan and Goals that were approved by the Human Rights Commission meeting on November 4, 2010 (page 7 of the packet materials). She noted that two items that were originally on the draft plan, "administering an appropriate grievance process as necessary" and "identify and respond to equity issues and resident concerns in the City" were removed from the mission statement at the February 17, 2011 Human Rights Commission meeting. In the case of the grievance process, the City Attorney will be providing a report on the reporting constraints for this item, and for the equity item, that was determined to be too broad of an issue.

Virginia Klevorn, 4755 Kingsview Lane North, stated she attended the Human Rights Commission meeting on February 17, 2011, and she disagrees with the analysis of the Work Plan as well as the proposed minutes from that meeting. She provided definitions of the word equity, and the differences between the Human Rights Act and civil rights. She explained the defined goals for human rights commissions according to the U.S. Department of Justice. She stated the

Human Rights Commission is the Council's partner, and normally the membership doesn't come from elected officials such as is the situation with the Plymouth Human Rights Commission where the Mayor, one Councilmember, and Police Chief were recently appointed to the commission. A commission should be able to hear and listen to residents in an impartial way.

Councilmember Johnson asked Ms. Klevorn if there is a basis for her position that elected officials shouldn't serve on advisory commissions. Ms. Klevorn replied that it's not uncommon to have a Council Coordinating Liaison or Police Liaison serve on a commission. She views it more as a conflict of interest.

Councilmember Bildsoe stated that he appreciates the comments, but the discussion should be on the Work Plan.

Councilmember Black asked Ms. Klevorn for clarification on "identify and respond to equity issues and resident concerns in the City." Ms. Klevorn mentioned the concerns that the Human Rights Commission addressed from residents at Town Square in 2010. The commission may not take any action, but the resident feels heard. It doesn't necessarily mean that an action will go forward or not go forward.

Councilmember Black asked Ms. Klevorn for clarification on "administer grievance process." Ms. Klevorn stated when she served on the commission, there were four members that were trained mediators. She noted that Mayor Slavik stated at the February 17, 2011 Human Rights Commission meeting that she was uncomfortable with the grievance process.

Mayor Slavik stated that is correct. If it was the Council's expectation for the commission to administer grievance process, there would be a more thorough interview process and background investigation on applicants to determine if they were even qualified to handle grievances.

Councilmember Black clarified all committees are advisory bodies to the Council, and handling grievances is an active, not an advisory role.

Ms. Klevorn disagreed and stated it depends on the definition of grievance. During the time that she served on the commission, there was never an official grievance that was presented to them.

Bill Garber, Chair of the Human Rights Commission, addressed the Council regarding appointment of elected officials on the Human Rights Commission.

Councilmember Johnson asked the City Attorney if there is a conflict of interest with elected officials serving on a City commission. City Attorney Knutson replied no.

Mr. Garber agreed that the Human Rights Commission is an advisory commission, but that this commission is different as it arises from Minnesota Statute 363.087. This statute allows a human rights commission to be formed, and an individual can file a charge with the local commission or State. He has no problem with the Mayor, Councilmember, or Police Chief serving on the commission if it doesn't involve a complaint against the City. It would be in the best interest of

the City for those folks to withdraw because of a potential problem. He doesn't think it's a legal conflict of interest but it's not best practice. The Human Rights Commission should handle those cases, not the Council.

Councilmember Stein stated one of the problems with the Human Rights Commission is that the appointees aren't qualified to investigate complaints. During the past 11 years that he has served on the Council, he was aware of only two racial profiling claims, and they were handled by the Police Chief. There was a determination that there was no racial profiling. The complainants were satisfied with the outcome. He mentioned last year a member of the Human Rights Commission came to a Housing and Redevelopment Authority meeting to discuss the rental rates of a City housing facility.

Mr. Garber stated that he doesn't recall that "identify and respond to equity issues and resident concerns in the City" was removed from their Work Plan. Therefore, that item should be on their Work Plan. Regarding "administer grievance process," they had a discussion on whether people were capable of handling and investigating a grievance. He stated he's a labor attorney, and he has the experience. The Police Chief also investigates complaints. With grievances, you hear both sides, and then it can go hearing or mediation. This commission, unlike other commissions, has a degree of independence when a charge is filed. The Council isn't necessarily involved in the decision making. Therefore, this item wasn't entirely removed from the Work Plan but the commission wanted an opinion from the City Attorney.

Mayor Slavik clarified that it's at the Council's discretion to leave both items in the Work Plan or remove them. The draft minutes indicated that they were removed.

Councilmember Black asked the City Attorney if the Human Rights Commission has some kind of responsibility in overseeing grievances. She's concerned by leaving out both items off the Work Plan that it could be open to interpretation strictly by Statute. Lastly, she asked what the degree of independence is for this commission. Would the City be liable for any action they take as they represent the City?

City Attorney Knutson replied the Human Rights Commission is a commission of the City, and it's difficult to speculate liability issues. There is potential liability on what commissions do for the City. He stated the Council could amend the City Code to make it clear as to what the tasks are of the commission.

Councilmember Black asked if Statute would overrule the ordinance. City Attorney Knutson stated it depends on how the ordinance is written.

Councilmember Bildsoe stated since there is a process in place with the State to handle grievances, why would the City duplicate something that's impartial and recreate structure in another form. There isn't a conflict of interest.

Mayor Slavik agreed and stated that she also made that point. The State has the infrastructure in place to enforce penalties, administer the grievance process (hearing, mediation, etc.). She

supports having an agency/body handle this process that has impartial training and ability to penalize for wrongdoing. She reiterated that if the Human Rights Commission was handling the grievance process, there would be a longer interview process, background checks, etc. She stated the City has had a very successful Human Rights Commission for many years. She noted she was disappointed to see that the commission didn't organize the essay contest this year as that's an activity that the Council values. The majority of the commission's time was spent discussing laws, grievance policy, Work Plan, etc.

Councilmember Willis provided history on the Human Rights Commission. The first commission was established in the early 1970s but was disbanded in the 1980s as the commission wasn't receiving any substantive complaints from the community. There wasn't a whole lot of activity, and the State was doing it. The discussion that the Council is having this evening poses the question again, if there is no business before the commission, what are the concerns? He stated he doesn't have any disrespect for any member of the commission, but if this can't be worked out in an amicable way, perhaps it's in the best interest of the City to have a commission, but allow the State to administer the grievance process.

Councilmember Johnson agreed with Mayor Slavik's comments regarding a more extensive interview process if the commission was administering the grievance process. She's unsure if she feels comfortable in having a grievance process when the State provides that process. If the state has the infrastructure in place, it should be handled there. She stated there is value in having a commission that will communicate with residents on diversity issues. Knowing where the commission has gone the past number of years, she doesn't feel comfortable in leaving the grievance process in there.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Black, to adopt a motion to approve the Work Plan on page 7 of the packet materials that doesn't contain the "equity" issue and "grievance process" as discussed this evening.

Councilmember Black suggested that the Council discuss those two items that were removed from the draft work plan at a study session.

Councilmember Murdock stated there are some issues that are best left with the State. She has confidentiality issues with the local Human Rights Commission. She agrees with the revised Work Plan and the motion before the Council. She commended the Human Rights Commission for the grants they received and the training they provided.

Motion was made by Councilmember Johnson, and seconded by Councilmember Murdock, to amend the main motion to reword item No. 1 of the goals to state, "One Human Rights Commission training or discussion (current topic – what is Domestic Partnership Registry?)"  
With all members voting in favor, the motion carried.

The Council voted on the amended main motion and with all members voting in favor, the motion carried.

Motion was made by Councilmember Willis, and seconded by Councilmember Johnson, to direct staff to review the existing Human Rights Commission enabling ordinance and return to the Council language that the grievance process function wouldn't be part of their charge. With all members voting in favor but Black, the motion carried.

Councilmember Black stated she voted against the motion as she's unsure if she wants all grievances handled by the State due to reductions in staffing at the State level.

Motion was made by Councilmember Johnson, and seconded by Councilmember Black, to reconsider the motion. With all members voting in favor, the motion carried.

Motion was made by Councilmember Willis, and seconded by Councilmember Bildsoe, to direct staff to review the existing Human Rights Commission enabling ordinance and return to the Council options and recommendations relating to the grievance process. With all members voting in favor, the motion carried.

Mayor Slavik left the meeting (8:30 p.m.). Deputy Mayor Black presided over the meeting.

## **Reports and Staff Recommendations**

### **(9.01) Legislative Update**

Administrative Services Director Portner briefly updated the Council on the legislative update that was provided to the Council this evening.

### **9.03) Set Future Study Sessions**

City Manager Ahrens requested the Council to cancel the study session that was scheduled for March 15. This item would come to the Council at later date and be a broader report/analysis. With the Council in agreement, they cancelled the March 15 meeting.

### **(9.02) Parks and Recreation Department 2010 Annual Report**

Park Director Blank gave the 2010 Parks and Recreation Department Annual Report as well as a history on the park facilities in the community.

Motion was made by Councilmember Willis, and seconded by Councilmember Johnson, to accept the Annual Report. With all members voting in favor, the motion carried.

**Adjournment**

Mayor Slavik adjourned the meeting at 9:10 p.m.

  
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Sandra R. Engdahl, City Clerk