

MINUTES OF THE REGULAR COUNCIL MEETING**July 14, 2011**

The Council meeting was called to order by Mayor John Schaaf at 7:03 at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council members, Marty Long, Gregg Nelson, Tim Dunleavy, Bruce Ackerman and Mayor John Schaaf. Also present were, City Attorney David Magnuson, City Administrator Melinda Coleman, Building Official Greg Schmit, Recording Secretary Kathy Laur, and Videographer Mary Guy.

Pledge of Allegiance**Approval of Agenda**

The Mayor noted two changes in the consent agenda Claims for Approval: Check #9644 and a new item under Petitions, Requests and Communications that the Night to Unite Proclamation requires all council members to sign it once approved. Melinda Coleman had a page change on New Business item #4 - LGWA agreements
Tim Dunleavy motioned to approve the agenda with these noted changes. Motion was seconded by Gregg Nelson, motion passed unanimously.

Citizen Comments

None

Consent Agenda

The Consent Agenda was read for the video record by Tim Dunleavy.
Gregg Nelson motioned to approve the consent agenda; the motion was seconded by Marty Long, motion carried.

Communications

Ramsey County Attorney John Choi – Came to express what an honor and privilege it is to be here and to represent our community and that he's here to offer assistance. He's reaching out to all of the cities in Ramsey County and wants to open up the lines of communication and to promote justice, protect the vulnerable; a big human services component insures that child support is collected and children are protected. Since he started in January there have been some exciting things in the office, one of the first things they did was look at the crime decline rate. He felt they could do a better job with respect to cases throughout the county and with law enforcement and take another look at cases that were pended out for further investigation. He started a "Second Look Initiative" meant to charge cases that have been declined, take another look and charge those cases. The department is doing a lot of things around career criminals, they just started a new program called DROP (Dangerous Repeat Offender Program). Seven % of individuals coming through the system take up 70% of the resources. They will receive enhanced sentences once they get a conviction. Great things have been done for juvenile prostitution such as intervention and protection especially with regard to children. A major goal is to reduce prosecution and to provide more intervention.

Keith Benker, Wenck and Associates – Update on the Hwy. 96 Superfund Site. The City of North Oaks is not a responsible party for the contamination nor is the City a party on the contamination. The roll of the City is to get the information out to the residents who are affected by the contamination. Wenck and Associates is continuing to review the site. The sump at the landfill was repaired in April. The sump continues to collect leachate, the highly contaminated liquid that seeps down through the material that still remain there. That's the first line of defense of capturing contamination at the dump sight. The second line of defense is the extraction wells that are located at the dump site and those have continued to operate properly. In March, Conestoga-Rovers on behalf of the responsible parties prepared an annual monitoring report for 2010 and submitted it to the Minnesota Pollution Control Agency. Keith reviewed the report on behalf of the City, the report looked to be in order and he agreed with the conclusions and recommendations of the report, including the repair of the sump. Mr. Benker also noted that there was a sampling of residential wells on west side of Gilfillan Lake. Vinyl Chloride was not detected in 26 wells. However, a new detection was discovered at one location that had not been detected before. The detection level at this site is below the MN Department of Health - Health Risk Limit which is established for vinyl chloride. The water is at a safe drinking level. Next sampling will be in October on east and west side of lake.

Councilmember Ackerman asked about residential wells in white on the map. Those wells have been replaced and the old wells sealed off.

Councilmember Dunleavy asked about the impact of filling up the lake. Water would be drawn from Pleasant Lake to Gilfillan and should have no negative impact.

Councilmember Long asked about contamination heading toward the Mississippi. There is contamination to the east; ground water flow is to the west. Wells are at different depths and this affects levels of vinyl chloride.

Councilmember Ackerman wanted to know if Keith anticipated testing houses in new areas that haven't been tested yet. The answer is yes, a comprehensive sampling of residential wells is done in October; 60-70 homes will be tested. Contamination hasn't been observed in the north or the south so less testing is needed.

Resident JimFox asked how many gallons of water are being extracted from the dump site lake. The answer is 20 gallons per minute. This does not affect the lake level in Lake Gilfillan.

The Night to Unite Proclamation was read for the video record by Gregg Nelson. The event is to take place August 2, 2011. Tim Dunleavy motioned to approve, the motion was seconded by Marty Long, motion passed unanimously.

Unfinished Business

Shoreland Ordinance –Need to table until August 28 meeting in order to allow the Planning Commission time to hold the required public hearing. Tim Dunleavy motioned to approve, the motion was seconded by Bruce Ackerman, motion passed unanimously.

New Business**1. Variance 11-08 18 Spring Farm Lane ISTS In Setback**

Greg Schmit gave the staff report. Arthur Hedstrom is requesting a variance for a new ISTS system. The site chosen is the only place for it to go. The Planning Commission agrees with the new site for the ISTS. Gregg Nelson motioned to approve with the following conditions; that the project needs to be completed within 120 days, that the contractor needs to consult with the City Forester prior to commencing work, that the system to be located per design and that a registered surveyor stake the south property line. Tim Dunleavy seconded. The motion passed unanimously.

2. Resolution 1247 Establishment of New Polling Location

Resolution 1247 was read for video record by Bruce Ackerman. The polling location will be changed from the East Recreation Center to 100 Village Center drive to provide a larger space for voters. In addition the new space is ADA compliant, has better parking (including off street parking) Marty Long motioned to approve, Tim Dunleavy seconded and motion passed unanimously.

3. City of NO and LGWA Agreement with St. Paul Regional Water Commission Board

Tim Dunleavy motioned to bring back up on the table; Gregg Nelson seconded and passed unanimously. City Attorney Magnuson - This agreement was reviewed at length at the last meeting with the exception of the language with regard to termination. The termination section was changed on page 8. In the prior draft, termination could occur at the will of the Water Board. In the new document, termination is just for "cause after failure to cure. And after termination we must remove things above ground, but will be allowed to abandon buried pipes in place." Bruce Ackerman motioned to approve, Marty Long seconded and motion passed unanimously.

4. City of NO and LGWA Agreement

City Attorney Magnuson - Since the last meeting several provisions were added. One provision is to obligate homeowners/LGWA to provide a copy of the liability insurance policy that they are required to have on the facilities by the water board agreement. In addition they are to name the city as an additional insured on that policy as the cities interests may appear. Additional insurance won't cost anything additional to the homeowner. Also added to the agreement is that homeowners are to abide by city agreement with the golf course and the water board and are obligated to follow both permits. A provision was added that will excuse them from strict compliance when impossible. Also added was an obligation on the part of the homeowners, to provide the City with a list of their officers, require notice of any change, and to keep the city

updated on LGWA contacts. Lastly, there was a change on the termination override; the document now references safe harbor guidelines. Marty Long motioned to approve, Gregg Nelson seconded and motion passed unanimously.

5. City of NO and LGWA Agreement with the NO Golf Club

This agreement had been provisionally approved at the last meeting. City Attorney Magnuson – the lawyer from golf club would like some minor changes in the easements. NOGC is happy with the surveyors' work but just want minor changes. It's a matter of rewording but not changing the agreement itself. Tim Dunleavy disclosed that he is vice president of NO Golf Club. Bruce Ackerman motioned to approve, Gregg Nelson seconded, motion passed unanimously.

6. Award of bid on Lake Gilfillan Augmentation Improvement Project

The Project Manager, Don Lutch is sick and unable to attend the meeting so Melinda Coleman, City Administrator will report. Three bids were received at City Hall last Thursday, July 7 at 10:00am for the Lake Gilfillan Project Bids were \$704,854 (the lowest), to \$883,172 (the highest). The Engineer's estimate for the construction portion of the project was \$781,890. The lowest bid was submitted by Magney Construction. Based upon review SEH recommends the contract to construct be awarded to Magney Construction for \$704,854. Mr. James Fox spoke – the three bids were reasonable and below the estimate. He noted that reserve money will be needed for filling the lake. 60,000 gallons will be needed for the first fill. Maintenance costs will be 16 man hours in the spring and in the fall. Golf club greens manager Jack Mackenzie has offered to manage it. It looks like the total project costs will be in the range of \$850,000–900,000. For the sake of transparency Bruce Ackerman noted that he is retired but his office has represented Magney Construction when he was employed there.. Gregg Nelson motioned to approve, Bruce Ackerman seconded for discussion – Nick Dragisich stated there should be a contingency for final approval for financing so there isn't a contract out there without financing in front of it. Gregg Nelson amended his motion; Bruce Ackerman seconded and motioned passed unanimously.

7. Nick Dragisich, Springsted, Inc-Review LGWA Project Finance Options

There is a preliminary commitment for financing from US Bank. It's preliminary because all the final costs are not identified yet. Wells Fargo did not respond to our request for a bid (too small). This will be done as a General Obligation Improvement Bond Chapter 429. This will be tax exempt obligations. They are general obligations of the city. A tax will be levied if there is a chance that the parties default and are unable to pay the bond. Assessments will come in the beginning of 2013 and thirty % are expected to be prepaid. We asked the bank to look at a preliminary figure of \$900,000. This would include everything that would be paid from the bond proceeds; construction, easements, legal fees, Springsted fees and engineer's costs. It's a one year construction period loan. There's a \$3,000.00 up front fee. Principal payments will begin in 2014.

Interest payments will be made in 2013. The risk to the city would be if a resident didn't pay their assessment. The city would put a lien on their property; assessments would have to be paid in full at the time of sale of home. No reserves are built into Bonds. The final numbers need to be worked out for financing. We will finalize these terms with the bank at that time. When construction project is completed, we will look at all the pre-pays and talk to the bank about converting to the final Bond. It was noted that there is one house on Lake Gilfillan is in foreclosure. The new owner would be responsible for paying the assessment. A motion is needed to direct staff to work with Spingsted to finalize the financing with US Bank. Ackerman motioned to approve, Gregg Nelson seconded, motioned passed unanimously.

The Minnesota DNR sent notice to the City that permits for the LGWA project could be postponed because of the government shutdown. The City Attorney met with the DNR and is confident we are on solid ground to move forward with the Lake Gilfillan Lake augmentation project.

Council Members Reports

Tim Dunleavy – Finance Committee: Solicitors in the area were found out and caught by residents who notified the CSO. Lake Johanna Fire Department responded to a call in Tim's neighborhood and was impressed with the work that they do and wanted to acknowledge them for the great work that they do.

Bruce Ackerman – No report on NOHOA. Community Clean up; meeting on Monday with ASC members to discuss cleaning up North Oaks; there are 20 or so issues with properties and the committee will be taking a more proactive approach than they have in the past to remedying these situations.

Marty Long – VLAWMO board met with DNR regarding Lake Gilfillan. They will be adding 3 monitoring levels to Lake Gilfillan. NRC report was turned over to Melinda Coleman

Melinda Coleman – Natural Resources Commission meeting. NRC wanted property ownership map; there isn't one; used a zoning map instead. They were pleased with the information on the zoning map. Asked for update on deer harvest program and gave them the numbers. The bulk of meeting was spent on work objectives into three subject areas; community forest, lakes and wetlands and urban wildlife. Community Forest would include tree management, yard and waste removal and invasive species. Education or work program is still in discussion. They are committed to putting in PVC pipe in Lake Gilfillan to check for zebra mussels.

Gregg Nelson – The Planning Commission on June 30th approved Variance # 11-08; Neighbors voiced concerns about the proposed location of the new septic system and were also concerned that the old system is failing and the potential groundwater contamination. Greg Schmit addressed their concerns. Noted future items for the Planning Commission: one of the businesses in strip mall wants to add massage therapist. And they will also address the shore land ordinance.

John Schaaf – Attended five meetings on the LGWA project. John, Tim Dunleavy, City Administrator met with Steve Paddock of Wells Fargo investments. He provided us with general information on investments of the cities funds; basic operating funds and reserve funds. His suggestion was to wait until September or October timeframe A lot was

learned from him on our opportunities. John met with VLAWMO and survey crew about adding stakes to Lake Gilfillan. July 15th John will meet with Sheriff Bostrom regarding our CSO position. One year ago today we had the first city council meeting in suite 150. Since that time the meeting space has been used 100's of times.

City Administrator Report

1. Administrative Assistant Recruitment Update

City of North Oaks Office Assistant Marcia Rich is leaving the city to go back into nursing. Marcia has been helping out with training in our new person Linda Hanson. We've published a position for an administrative assistant in the Shoreview Press, White Bear Press and have 35 applicants so far. We want to move the new hiring process ahead quickly. John Schaaf and Bruce Ackerman will be in on the second interviews of the candidates.

2. 2011 Budget Actual vs. Planned

We received the monthly financial statement with budget comparisons for the 2011 budget and where we stand for the year. Income statement did reflect property tax 1st half payment. However, the City did not receive full payment and that usually comes at in mid- August. Nothing out of the ordinary on the income side and we are where we should be for permits, licenses, etc. We are on track mid-year for all the categories. We are over budget on legal line item due to Lake Gilfillan project but looking healthy in terms of revenue. We've had unplanned expenses due to coyote management. Staff has engaged the services of Mercer England to handle that matter. Staff is recommending a transfer of \$1000.00 from Wenck and Associates to Natural Resource Budget to cover coyote management. Bruce Ackerman motioned to move funds to cover coyote management, Gregg Nelson seconded, motion passed unanimously.

3. 2012 Budget Meeting Report

Ms. Coleman noted there will be additional expenses for public safety next year. 2011 budget for public safety is almost \$823,000. It's projected to go up to \$864,234 for public safety and there will also be increases for Lake Johanna Fire Department. Increases will also include municipal elections for 2012 and Roseville joint powers agreement will go up slightly; capital needs for Lake Johanna are being worked on. Finance committee will meet again the Monday before the August city council meeting. The Finance Committee meet a couple of times before the September city council meeting to set the preliminary levy. State law requires that cities set the preliminary levy by September 15th. We have three or four weeks to pull everything together.

City Attorney Reports

Sarpal Update – The resident has chosen a spot for relocation of the shed and it has been reviewed by the Building Official Schmit.

Mayor Schaaf thanked the City of Shoreview for allowing their public works staff to assist on review of LGWA bids.

Miscellaneous

Next Planning Commission Meeting – Thursday, July 28, 2011

Next Natural Resource Commission Meeting – Monday, August 8, 2011

Next Regularly Scheduled City Council Meeting – Thursday, August 11, 2011

City Council adjourned to executive session to discuss litigation.

Tim Dunleavy motion to dismiss, Gregg Nelson seconded, motion passed unanimously.

Adjourn 9:09

An Executive Session was called to order by Mayor Schaaf at 9:20 pm. The purpose of the meeting was to discuss pending litigation with Frandsen, et all. In addition, the Council discussed the desire to put out an RFP for prosecuting attorney services. Council Members Nelson and Ackerman will work with the City Administrator to undertake this process.

The Executive Session closed at 10:05 pm.

Attest:

Respectfully submitted,

John Schaaf, Mayor

Kathy Lauer, Recording Secretary