

MINUTES OF THE REGULAR COUNCIL MEETING

April 14, 2011

The Council meeting was called to order by Mayor John Schaaf at 7:02 p.m. at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council members Gregg Nelson, Marty Long, Bruce Ackerman and Mayor John Schaaf. Absent: Tim Dunleavy. Also present were City Administrator Melinda Coleman, City Attorney Dave Magnuson, Recording Secretary Donna Osterbauer, and Videographer Kevin Scattum.

Mayor Schaaf noted that Council Member Tim Dunleavy was absent and he asked for a motion for the evening to appoint a temporary, acting mayor in case Mayor John Schaaf could not continue on with the meeting. Marty Long moved to appoint Council Member Gregg Nelson as temporary, acting mayor for the evening. The motion was seconded by Bruce Ackerman and passed unanimously.

Pledge of Allegiance

Moment of silence in memory of Peter King

Approval of Agenda

Marty Long moved to approve the agenda. The motion was seconded by Gregg Nelson and passed unanimously.

Citizen Comments

None

Consent Agenda

1. Minutes of the Regular Council Meeting March 10, 2011 for approval ~~with the following two changes: 1. CUP 11-01 change the spelling of the word recuses. 2. There was a motion to approve CUP 10-11 so we are adding "Motion passes unanimously by Council." to the minutes.~~
2. Planning Commission Minutes March 30, 2011 for approval
3. Licenses for Approval:
Mechanical Contractors: Glowing Hearth & Home; Metro Gas Installers; Wencil Services
General Contractors: Chan's Consulting, LLC
Sewer/Water Installation:
Arborists: Precision Landscape & Tree, Inc.
4. Claims for Approval: Check # 9511 – 9545

Council Member Bruce Ackerman asked to remove #1 and #5 from the Consent Agenda.

Motion passed unanimously to approve items 2,3 and 4 on the Consent Agenda.

Council Member Bruce Ackerman discussed page 4, items 3 & 7. He commented that in an effort to make the minutes a little clearer and more transparent to people who read these in the future, he would like to add a sentence to each of those sections.

In item #3, he would like to insert a sentence which will be the second to last sentence of item #3. It will read as follows: Discussion was had as to the advisability of increasing the proposed allocation to LJFD by \$5,000 and decreasing the allocation to the IT equipment fund by \$5,000. In item #7 he would like to add a sentence at the end of the paragraph which will read as follows: Council Members agreed it was very useful to receive as much updated information as possible

on topics of interest to the council and requested that the City Administrator continue to provide the council with such information.

Marty Long moved to approve the changes to the minutes. The motion was seconded by Bruce Ackerman and passed unanimously.

Item #4 on the Consent Agenda - Claims for Approval Check # 9511-9545. Council Member Ackerman noted that there were some items that were submitted that relate to 2010. They are significant enough in amount that some of them wipe out the entire budget we have this year for those amounts. He urged the City Administrator to emphasize to the various vendors that we deal with the importance of making timely submissions to us with the various bills that they have.

Gregg Nelson moved to accept the claims for Check 9511 – 9545. The motion was seconded by Bruce Ackerman and passed unanimously.

Petitions, Requests & Communications

None.

Unfinished Business

Address Identification Ordinance-Reading of final draft. Council Member Bruce Ackerman read Ordinance No. 100 – AN ORDINANCE AMENDING THE CITY CODE AND THE RESIDENCE NUMBERING REGULATIONS WITHIN THE CITY OF NORTH OAKS. A copy of the ordinance is available at City Hall and also online on the city website under Legal Notices.

Jim Daly, Emergency Services Coordinator, was present and noted that if residents are interested in finding more information on Section 505 of the 2006 International Fire Code they could find it online both through the International Fire Code or it is referenced under the State of Minnesota Statutes because the state has adopted it. Mr. Daly is looking forward to helping people and encouraging people to get in compliance as soon as they can.

Marty Long moved to adopt Ordinance No. 100. The motion was seconded by Bruce Ackerman and passed unanimously.

New Business

1. CUP 11-02 Norris and Lesley Carnes 22 Evergreen Road

The Applicants, Norris and Lesley Carnes are requesting approval to remove buckthorn and to allow tree pruning within 20 feet of the shoreline at 22 Evergreen Road.

The applicable sections of the zoning ordinance are as follows:

Section 153.052 Shoreland Alterations, Section (B) (2)(b), no vegetation may be altered, trimmed or removed between 20 feet and 100 feet from the ordinary high water level of any public water, without first obtaining the approval of the City Forester. Forester approval shall be subject to satisfaction of the following criteria:

1. Intensive vegetation clearing of clear-cutting is prohibited except as necessary for placing public roads, utilities, structures, parking areas and trails.
2. Large openings in overhead forest canopy are not created; the area of post-cutting canopy coverage must be 80% or more of the pre-cutting canopy coverage;
3. Topping of trees is prohibited.
4. The screening of structures, vehicles, or other facilities, as viewed from the water, assuming summer leaf on conditions is not substantially reduced; and
5. Clearing is limited to providing a view of the water from certain portions of the principal dwelling site and to accommodate the placement of stairways, landings, and access paths.

Section 153.052 (B)(3) Vegetation may only be altered, trimmed, or removed within 20 feet of the ordinary high water level after securing a conditional use permit in accordance with the review and approval procedures, and criteria and conditions for review of conditional uses, established in Section 153.056. The following additional evaluation criteria and conditions shall apply.

- a. Only the removal of non-native plant materials is permitted.
- b. Planting of native plant materials is permitted, especially to prevent soil erosion and to trap sediments before they reach surface water.
- c. Trimming of branches is permitted to allow sufficient sunlight for growth of understory vegetation and reforestation.

The City Forester is recommending approval with conditions.

The Planning Commission reviewed the application and recommendations from the City Forester. A motion was made to recommend approval of the CUP with conditions and passed unanimously.

The City Administrator said that the application fee for this CUP was \$400.00. The City Administrator will be making a recommendation at the next City Council meeting of the possibility of waiving the \$400.00 fee on those shoreland projects. They are a real benefit to the community and it seems like it is holding people back instead of encouraging people to do that work. The City Administrator will check into whether it is the City or the DNR regulations that require a CUP for the 20 feet to the shoreland.

Gregg Nelson moved to approve CUP 11-03 for removal of buckthorn and tree trimming at 24 Evergreen Road with the following conditions:

1. The City Forester reviews and supervises the specific trees and buckthorn removal areas under the blanket NOHOA conditional use permit.
2. Return the trail to its former condition.
3. No chemical use near the lake
4. Remove debris from the site.
5. Replant with native species.
6. Remove some lower tree limbs to improve light penetration.
7. That the applicant obtains the required approval from NOHOA to work on their land.
8. Any stumps remaining from buckthorn removal are cut down to the lowest possible level at the ground.

Mike Egelston, Vice President of NOHOA, commented that the majority of the NOHOA board is also behind this kind of effort and he would like to encourage the Council to continue doing

these kinds of things. They are starting a clean up North Oaks Program through NOHOA that they are going to try to help facilitate more and more of this type of activity around the lakes and the community in general. Mike thanked the City Council for approving the CUP's and encouraged them to keep up the good work on it.

The motion was seconded by Bruce Ackerman and passed unanimously.

3. VARIANCE 11- 04 Lawrence and Susan King #3 DEER LANE

The applicant is requesting several variances to demolish the existing home and construct a new home at 3 Deer Lane. The lot is 1.58 acres however; half of the area is unusable due to wetlands and their respective setback requirements. The current ISTS is failing and non-compliant and would need to be replaced.

When reviewing this, Building Inspector Schmidt points out difficulties with this:

- Half of the lot is unusable due to wetlands.
- The current structure is sub-standard and is need of a replacement ISTS. A replacement system cannot be installed without a variance and would not provide any area for a future system due to setback restrictions from the current structure.
- The area provided for the ISTS replacement would be adequate for installation of at least two complete systems, with additional room for expansion.
- The proposed structure would be compliant with minimum lot area, building setbacks, height restrictions and the Floor Area Ratio.
- Similar variances have been granted in the past: 5 Gadwall, 14 Evergreen, 6 Evergreen

The Planning Commission reviewed this application at their April 30th meeting. They had several questions regarding the location of the ISTS sites and the well. In addition, it was noted that a neighbor at 5 Deer Lane submitted a letter of support for the project.

The applicant was present and they explained that they have a 1962 rambler which they are trying to replace with a more efficient home. The Planning Commission unanimously recommended approval with a condition. In addition, the Planning Commission granted approval for grading (for installation of ISTS mound) within 30 feet of the adjacent north property line.

Building Inspector Schmidt pointed out a typo under the description of request Section 151.050 (F)(1) that 15 feet should read 20 feet. It is drawn that way on the site plan. When the applicants submitted the plan, they had requested a 15 foot variance for the primary system. In reviewing it, the Building Inspector thought that it was a better use to expand it another 5 feet to give them the option of increasing the size of the mound if need be in the future and pulling back the future site from the property line since we don't know when or what type of system would eventually go in there. The state rules allow for a 10 foot property line set back so they would be in compliance with that.

Marty Long moved to approve Variance #11- 04 to encroach into the setbacks and to approve grading within 30 feet of an adjacent property line for installation of a replacement ISTS and well.

At 3 Deer Lane to allow the following conditions:

- 1) A variance of approximately 7000 sq.ft. from the required 25,000 sq.ft. of useable area for building.
- 2) A variance of approximately 4415 sq.ft. from the required 10,000 sq.ft. for the placement of two ISTS.
- 3) A variances of 20 feet from the required 30 foot north property line setback for installation of ISTS systems and an additional variance allowing the well to encroach 22 feet into the required 30 foot road easement setback from Deer Lane.
- 4) A variance allowing the well to encroach 22 feet into the required 30 foot road easement setback from Deer Lane.

The motion was seconded by Council Member Ackerman.

Council Member Ackerman questioned what the difference is between a 3 and 4 bedroom house in terms of what is required for a minimum are for a septic site. Would there have been any difference in the size of the drainage field or mound system had it been a 3 bedroom house? Building Inspector Schmidt said that there would have been a difference because they calculate septic size based on the number of bedrooms or potential number of bedrooms. It is sized at 150 gallons per day per bedroom which then equates to the size of the system.

Council Member Gregg Nelson would like the language at the end of the motion be approved with the following condition: The ISTS be located per the design report prepared by Inspect Minnesota and Midwest Soil Testing, dated January 25, 2011.

The motion passed unanimously.

4. LGWA UPDATES/Action Item

a. Update from LGWA, Mike Egelston

- VLAWMO has issued a determination of no net loss in this project and no comment. They're basically saying that LGWA can do this.
- The DNR is currently in their 30 day peer review process. It seems that the permitting process is going forward.
- Met with the North Oaks Golf Club last night and Mike felt that they seemed to be giving them fairly favorable nods toward allowing them to use their property. They have not yet voted on it.

- The final thing for the update is that 31 out of 41 lot owners have signed the assessment agreement, which means they are almost at 80%. The NOHOA property is part of the 41.

b. Resolution #1243 - Ordering Preparation of Report on Improvement – Lake Gilfillan

City Administrator Coleman presented the Council with a resolution which would order the preparation of the feasibility report. What staff is asking is permission to approve Resolution 1243, Ordering Preparation of Report on Improvement for the LGWA Augmentation Project.

Once that is completed, it will be brought back for the City Council's review. Hopefully that would be completed by May 12 and then we could set public hearings for the actual improvement itself. This is the first step of the city taking action to be the overseer and proceeding with getting the plans, specs and bonding done.

Council Member Ackerman made a motion and read Resolution 1243. The motion was seconded by Gregg Nelson and passed unanimously.

c. Proposal from Springsted, Inc. to do a financial study for the City with regard to the bonding for the Gilfillan Lake Flow Augmentation project.

Springsted's scope of services would include:

- The objective of the study is to coordinate the bond sale activities.
- Verification of financial information and statutory requirements as it pertains to the bonds including the cash flow projections
- Preparation of multiple structuring options to determine the most appropriate principal repayment structure for the project based on cash-flow projections including special assessments
- Preparation of a sale calendar, taking into consideration the project bidding, construction and related activities
- Preparation of the Terms of Proposal that outline all the parameters used by Bond Counsel to prepare resolutions
- Preparation, and presentation of written recommendations that detail the financing
- Analysis and recommendation for the bond rating applications provided a rating would be beneficial to the sale
- Assistance with the preparation for the bond rating call, attend and participate in the rating call
- Preparation and distribution of the Official Statement or Term Sheet
- Conduct the bond sale and present the results to the City
- Coordination of the closing process and delivery of the bond record
- Advise on any continuing disclosure requirements

The proposed fee for financial advisory services is based on the size of the bond issue. The fee for a bond issue of \$500,000 to 1,000,000 would be \$10,500. In addition, they would charge for related expenses including printing and distributing and other incidental charges they incur.

The \$10,500 would be the fee that would be paid. Staff suggests that we go ahead and engage the services of Springsted. The City Attorney and the City Administrator are both very familiar with Springsted as they have worked with them over the years and have been very pleased with their services.

Council Member Long asked if we could pick Springsted without getting other bids. The City Attorney said that all personal service contracts may be negotiated by the City Council. This is a personal service contract as are contracts with lawyers, engineers or other consultants and they may be done without bidding.

Council Member Ackerman said that a resident asked what the bond capacity is of North Oaks. The city attorney said your debt is 1% of your assessed valuation and the assessed valuation is 1 billion plus.

Another question that Council Member Ackerman was asked was what the liability to the city is for something like this, for example if it fills up and floods resident's basements. The City Attorney said that the liability for flooding may be against the people who designed the system – it's possible that there could be a claim against them for negligence. Usually there is a public duty that insulates the City Council from claims such as that. The City has insurance coverage through the League of Minnesota Cities and most municipalities have a \$5,000 deductible. Those policies cover defense as well as claims against the city. If there would be liability, there is a Minnesota Tort limit which is 1.5 million. That's the limit for any number of claims out of one occurrence.

Council Member Long had questions about the next phase of this project when some of the ponds may request water. Who controls it? Who is in charge at that point? The city attorney said that it involves a larger discussion. He felt that we could make an agreement with these owners and set limits on how much they could extract from people as this facility is extended. Council Member Long pointed out that the Council should be looking ahead a few years at the possibility of others who want to get on. The Mayor said there would need to be a work session to discuss several of these items.

Marty Long moved to engage Springsted. The motion was seconded by Bruce Ackerman and passed unanimously.

d. Bonding & Project Time Table

Dave Magnuson, City Attorney, explained the process of an improvement such as the one the city is contemplating. Since it involves an assessment, it is necessary that the city follow the procedure that is set forth in Minnesota Statute 429:

1. Council directs Engineer to prepare Feasibility Report (April 14th).
2. If found “Feasible” Council orders Improvement Hearing (May 12th):
 - a. Mail notice to each owner not less than ten (10) days before Hearing and
 - b. Two publications of notice, one week apart and Hearing must be at least three (3) days after second publication.

Council may order the Improvement at the Improvement Hearing by 4/5th the vote, and direct preparation of plans.

3. Council approves plans and directs advertisement for bids (June 16th).
If estimated costs exceed \$100,000, publication no less than three (3) weeks before the last day for submission of bids in legal newspaper and once in a trade paper (Construction Bulletin).
4. Contract is awarded by City Council (July 14th)
City Attorney pointed out that if half of the people come in before the 15th of November and pay their assessments, so they can avoid any interest, you would keep the money in a “debt service fund.” Debt Service Funds are only earning about 1.5% in interest. The assessments are certified at a 6.5% - 6.7% rate, so you aren’t going to earn as much if they prepay.

The City Attorney shared with the Council that if everyone would sign the agreement (100%), they would do away with the improvement and the assessment hearing. If only one person doesn’t sign, you would need to have the hearings.

If you have further questions, please call the City Administrator or the City Attorney.

Mayor Scaaf wanted to make note that if the Department of Natural Resources says no, then this project is all done. LGWA has to have the water authority agreement, the North Oaks Golf Club, VLAWMO and the DNR agreement before they start the bonding process.

Council Member Reports

1. Bruce Ackerman:
 - NOHOA – Council Member Long attended the NOHOA meeting as Council Member Ackerman was unable to attend.
2. Marty Long:
 - NOHOA - There was meeting held with St. Paul Water prior to the NOHOA meeting to talk about the improvements to Pleasant Lake and a new type of aeration. At 7:00 pm the NOHOA meeting started and they recognized Peter King with a gift to Russell King and Peter’s grandson.
 - Bob Scholtz, Safety and Security Coordinator is retiring.
 - There was discussion about the new web page that is going to be created.
 - The Community Fair will be held on June 4th.
 - They will be starting on the new bathroom at the beach in May.
 - They discussed having a clean up day.
 - NRC – most of the meeting was spent setting up a framework and possible future training
 - VLAWMO- Council Member Long was at the State Capital because they have been working on a law change regarding campaign disclosure. It was passed and moves on to the Senate. The VLAWMO Board will be meeting on Wednesday.
3. Gregg Nelson:
 - Planning Commission met on March 30, 2011. Much of what was discussed

there was also presented today at City Council – the two C.U.P.’s on Evergreen Road and the Variance for 3 Deer Lane were approved by the Planning Commission. There was also a lot line change request for a property on Hay Camp Road and that was also approved. It is not on the City Council agenda for today.

Mayor John Schaaf

- Attended the Natural Resource Commission meeting. Mayor Schaaf was impressed by how far the group has gotten, how fast they are moving and the dedication of the Commission.
- Attended the NOHOA meeting and they recognized Bob Scholz for his years of service. When Bob formally retires, the City will be participating in the recognition for him.
- Had a discussion with Minnesota DNR hydrologist, Molly Shodeen.
- Received a call yesterday from Tom Zimmer, a real estate consultant. He is representing the Sisters of the Home of the Good Shephard. They are interested in doing something different with that property. They have a meeting scheduled with him for Thursday morning in City Hall.

Administrator Reports

1. First Quarter Code Violations/Complaints - Melinda Coleman presented a copy of the code violation/complaint system that is currently in place. Mr. Magnuson is working with Ms. Coleman on getting letters out to residents that do not have fences around their pools.
2. Diseased Tree Compliance Report - There were 264 trees that were identified as diseased – there are still three trees left that need to be removed. If the residents do not comply, the city will have the trees taken down and the property will be assessed.
3. Computer Purchase – authorization to order - Staff requests Council approval to order 3 computers through the State of Minnesota Purchasing Program via the Roseville IT Contract. The approval is for a total purchase not to exceed \$3,700.

Marty Long moved to approve the purchase of the computers. The motion was seconded by Bruce Ackerman and passed unanimously.

4. Update on annual city audit - Ms. Coleman distributed the completed audit documents to the Council. The auditors will be coming to the May 12 City Council Meeting and giving a presentation.
5. Update on Road Restrictions - Road Restrictions are still in effect. MN DOT normally gives us a three day advance notice when they are going to lift those restrictions. We have not heard anything at this time.
6. Update on 2011 budget actual to plan results to date - On the income side, we have not received our first half of tax payments which will happen the second week of June. It will add to the income about \$658,000. We have received to date \$91,595. On the expense side, the City Administrator pointed out that the public safety budget on line #251 shows that we have a total budget of just under \$470,000 and we have expended

\$122,710. We received a rebate from Ramsey County which included some money back from the state for training law enforcement officers in certain areas. We pre-pay Lake Johanna Fire Department. We pay them the first of January and then again in July.

7. North Oaks Home Foreclosures - Ramsey County had a total of 2,600 foreclosures in 2010. In North Oaks, there are seven. Of those, two have been sold and one is pending.

City Attorney Reports

1. Update on Pines Code Enforcement - On Tuesday, the Pines Board met with a horticulturist at the site of the trees. The horticulturist does not want to move the trees until the buds have swelled which could be in about another week. They have a site plan drawn for where they will be re-locating the trees and should have that presented to Melinda Coleman A.S.A.P. They hope to have the plan complete on Friday. If it is approved and the buds swell, the trees will be moved next week. The trees will move from the west Pines to the east Pines.

2. Update on Supreme Court Sarpal Case – There is nothing new to report.

Miscellaneous

Next Regularly Scheduled Council Meeting – Thursday, May 12, 2011 @ 7:00 pm in the Community Meeting Room

Next Natural Resource Commission Meeting – Tuesday, May 3, 2011 @ 6:00 pm. in the Community Meeting Room

Next Planning Commission Meeting – Thursday, April 28, 2011 @7:00 pm in the Community Meeting Room

Adjournment

On motion duly made, seconded and carried unanimously, the meeting was adjourned at 9:05 p.m.

Attest:

Respectfully submitted,

John Schaaf, Mayor

Donna Osterbauer
Recording Secretary