

MINUTES OF THE REGULAR COUNCIL MEETING

April 12, 2012

The Council meeting was called to order by Mayor John Schaaf at 7:00 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, Tim Dunleavy and Mayor John Schaaf. Also present were Building Official Greg Schmit, City Attorney Dave Magnuson, Recording Secretary Linda Hanson, and Videographer Kevin Scattum. City Administrator Melinda Coleman was absent.

Pledge of Allegiance

A moment of silence was observed for the recently deceased Golf Pro Ray Vennewitz Sr.

Approval of Agenda

Mayor Schaaf handed out the Forester Week in Review report and made note of the minor changes in the agenda.

Council Member Nelson moved to approve the agenda. The motion was seconded by Council Member Ackerman and passed unanimously.

Citizen Comments

Resident George Rux, 5 Shadow Lane, came to the podium to express his concern about the pool litigation currently in process. He asked the Council Members to tour the three properties involved to determine the safety risk. He believes that with the low density, the setbacks and distance of the properties to other homes they do not pose a safety risk. He would like to see the City to ask for an out of court settlement.

The Mayor stated that the Council could not discuss the law suit at this time.

Consent Agenda

1. Minutes of the Regular Council Meeting of March 8, 2012 for approval.
2. Planning Commission Minutes of March 29, 2012 for approval
4. Licenses for Approval:
 - Mechanical Contractors:** Condor Fireplace & Stone, Summit Home Fireplace, Metro Gas Installers
 - Plumbing & Heating:** Marsh Heating and Air
 - Arborists:** S & S Tree Specialists
 - General Contractors:** Prestige Pools
 - Sewer/Water Installation**
5. Claims for Approval: Checks #9941-9971

Council Member Nelson made a motion to substitute the minutes with the revised version and Council Member Ackerman seconded the motion. It passed unanimously.

Council Member Long moved to accept the consent agenda, revised minutes and claims for checks 9941-9971. The motion was seconded by Council Member Nelson and passed unanimously.

Petitions, Requests & Communications

1. Superintendent of Mounds View Schools #621- Dr. Dan Hoverman

Superintendent Dan Hoverman and School Board Member Lisa Sjobeck presented an update on the Mounds View School system.

Strategically, the district looks at financial stability and management, academic excellence and safety of students and staff, and excellence in governance, leadership, instruction, and engagement. About ten years ago, the Board adopted a policy governance that gives the day to day operations and management to the Superintendent rather than to the Board. It is his responsibility to make sure the proper people are in place to carry out the vision and goals of the district.

The School Board has set a number of goals (22) in their District Operational Plan, but four are a priority. These include school/home communications, contract negotiations (which are now complete), The STEAM program at the middle schools, and an Early College Program at Irondale High School.

Demographics are changing in the District with a greater number of students of color and those who receive free and reduced lunch. The number of students receiving free and reduced lunch spiked in 2009-2010 and 2010-2011. The Superintendent stated the importance of meeting the needs of all students as the demographics change.

Enrollment in the Mounds View schools had been dropping from 2006-2011, but this year it appears to be stabilizing. The expectation is that enrollment will stay about the same for the next few years.

The District appears to have financial stability. They invest \$7,676.00 per student with \$.77 (cents) out of every dollar going for student instruction and support. The District currently has a \$24 million dollar fund balance because of the conservative budget approach that has been followed over the past several years. In negotiating with staff, a mid-range contract was the goal with a need to keep health costs down.

The District has in place programs and services to ensure that race, class, and disabilities will not dictate student success regardless of any school they attend in the District.

Mounds View is proud of their success. They have been named by US World and New Report as a Silver school. The highest category is Gold and no district in the state of Minnesota has this distinction. There are eleven Silver schools in MN and the Mounds View District and the City of Minneapolis are the only ones to have two high schools with this distinction.

Also, they are implementing the STEAM program for the middle schools. This allows for additional opportunities for science, technology, engineering, arts, and math and includes things like the physics fair for example.

The District is also changing expectations for math and reading. Dr. Hoverman stated that the current law is not rigorous enough for some of the students. The District begins following student's success as early as third grade to determine the path each is on. The goal is to up the rigor and expectations where possible and inform parents as early as possible. To close the achievement gap the District needs to provide opportunities, raise expectations, and identify clear goals to aspire.

Dr. Hoverman also discussed the Early College Program that will be in place at Irondale High School next year and will also be implemented at Mounds View High School in the fall of 2013. Working with a community college, Anoka-Ramsey, a hybrid plan has been created. Currently, student debt for college exceeds mortgage debt and this program allows students to take college courses while in high school at no cost to the student. Students do not have to take these courses, but there are obvious advantages. This program is geared for the students who fall in the middle and are often overlooked. They are also looking at technical colleges as well. It is unusual for a high school to have a college program geared for the middle range students and it is a prototype nationwide. Dr. Hoverman made it clear that this program will not take away from any other program.

In addition, the Mounds View Education Foundation pays the cost for all juniors to take the ACT on campus. All sophomores take a practice test and the freshmen take a pre-plan assessment. This has been very successful as some students have not taken this test in the past.

Council Member Dunleavy asked about the minority graduation rate and Dr. Hoverman stated that the District has a 93% graduation rate with 5-6% on a five year plan. He stated the importance of having a vision beyond the diploma and an early intervention for success for all students. Ms. Sjobeck stated it would be helpful if the state required students to stay in school until the age of 18. Currently students can drop out once they are 16.

The Oak Grove School that was located at the Home of the Sisters of the Good Shepherd property will move to Snail Lake next year. The middle school has already moved there and the high school will join next year.

The Mayor mentioned that only about 10% of the Mounds View students come from Highway 96 communities, but yet the Mounds View School District represents 100% of the future which is in their hands. He stated that they do a very important job.

A question came up about what resources were available for those students who are having problems such as depression and self-esteem. Dr. Hoverman stated that programs are in place for student connectedness so that each student has one or more adult that they can connect with as well as programs to involve community support services. A Positive Behavior Intervention Program is also in place at the grade schools and will soon be added to the middle schools to deal with bullying.

Unfinished Business

1. Resolution #1256: Re-establishment of Precinct Boundaries

The Mayor signed Resolution 1256 which is a statutory requirement with no real change that needed to get to the State before the current meeting. Council Member Long made a motion to approve this resolution and Council Member Ackerman seconded it. The motion carried unanimously.

New Business

1. VAR 12-01, 1 Squirrel Lane, Deck in Setbacks

Building Official Greg Schmit gave an update of Variance 12-01 asking to allow a deck already constructed to encroach 20 feet into the North setback and 13 feet into the East setback. Staff reviewed the request after it was presented to the Architectural Supervisory Committee which denied the request. The Planning Commission also unanimously denied the request as it did not meet the requirements necessary due to the fact that the condition was created by the homeowner rather than the uniqueness of the property. The Commission did not find any facts to support the criteria of practical difficulties.

Michael Quinn, 1 Squirrel Lane, came to the podium. He apologized for his misinterpretation of the code and ordinances. He stated that he was once told he could not build a fence, so he constructed a deck to make it safer and to better use the land. He stated that if he could not keep the deck its current size, he would like to put in a privacy fence for both the safety of the pool as well as a reduction of the noise level. He agreed to remove the deck on the North side but wanted to amend the Variance to keep the deck on the East. He stated that the City forester led him to believe that his property line went further than it actually did. To use his property he would need to use fill if he did not have the deck and he felt the deck was the less expensive and more attractive option.

The Mayor suggested he withdraw the Variance request and re-do his plan and if a variance was again needed, to go back to the Planning Commission and start over. City Attorney Magnuson stated the Council could table this request until the next meeting.

Council Member Nelson mentioned that with this Variance the Council does not have that much flexibility. Also neighbors have been attending meetings regarding this Variance and Mr. Nelson expressed concern that they would need to attend additional meetings.

Council Member Long suggested that the homeowners begin removing parts of the deck now and then submit a new plan if a variance is needed.

F. Abel Ponce de Leon, 16 East Oaks Road, addressed the Council. He expressed support of the denial for this Variance request. He was appreciative that the homeowners removed the sheds in the setback, but felt that the deck still affects his curb appeal and value of his home. He would like to see the ordinance for the setback respected.

Council Member Ackerman asked how many feet would need to be removed and stated that this was a very large deck. Mr. Quinn explained that it would be at least seven feet, but probably more to make the deck look right. Mr. Ackerman suggested he cut off the part of the deck in the setback which would still leave a large deck.

The Mayor presented Mr. Quinn with two options: ask the Council for approval or denial. City Attorney Magnuson suggested that the Council could vote without prejudice and then if denied Mr. Quinn could resubmit immediately if a variance is needed for a new plan.

Council Member Nelson moved to deny the request for Variance 12-01 without prejudice and Council Member Long seconded the motion. It carried unanimously.

The homeowner decided to not pursue a variance, but make changes to the existing deck. Council Member Ackerman stated that it would be wise to begin to bring the deck into compliance as soon as possible and to make sure that an accurate survey is used.

Council Member Nelson made an additional motion giving the homeowners 45 days to come into compliance or to request a variance without further action from the City. Council Member Long seconded the motion and it passed unanimously.

2. Shane Waterman, Wenck and Associates: Report on Hwy 96, 2011 Annual Water Monitoring Report

Shane Waterman from Wenck and Associates stated that Mr. Benker is no longer with Wenck and Associates, so he presented an update of the dump site remediation that has been ongoing. In 2011 they did a rehab on the two extraction wells. They replaced the first pump in October and found that the screens were performing well. Both wells are working to capture the contaminants from the site. They also looked at the compliance wells on the east edge of Robb Farm Road. They found that the contaminants were being satisfactorily held in these wells also.

Mr. Waterman explained that they will test residential wells in October, but because of the presence of vinyl chloride found in the well at 2 Heron Lane last October, this well will be tested in April. Mr. Benker contacted the MN Pollution Control Agency asking them to test the wells across the street from 2 Heron (1,3, 5 Heron Lane) before next October. The MPCA will consider testing these wells in April.

Council Member Ackerman asked about the report sent out by the Minnesota Pollution Control Agency. He was concerned about the other VOC's that were found in wells on Duck Pass (#9, 20, 22) and what the safe limits were for these compounds. Mr. Ackerman was especially concerned with one compound (DCFM) which has no safe level. Mr. Waterman explained that they do test for a number of VOC's but that not all have an established safe limit. Vinyl chloride has the lowest health risk limit at this time. Mr. Waterman explained there is a lack of toxicology data at this time for the many compounds out there. Council Member Ackerman would like to see a map that shows all the VOC's found.

The target established by the State (MN Pollution Control) as a superfund is a defined area and gets tested twice a year unless no chemicals are detected and then they test once a year. This is the first time in years that they need to test twice a year. Council Member Dunleavy asked why these compounds might be spreading now. Mr. Waterman explained that it is hard to determine the reason for these new detections because the sub-surface is very dynamic. The fact that they are spreading in this direction is somewhat surprising to Mr. Waterman.

Council Member Nelson asked if the VOC's detected at 2 Heron Lane were from the supersite. Mr. Waterman stated that he would agree that they probably were.

Doug Tiffany and Judy Ohannesian, 1 West Shore Road

Doug Tiffany stated that the contaminants have been moving for some time to get to the west side of Lake Gilfillan. What the wells are capturing now are the new contaminants. There were detections across the lake, so it is no surprise that the compounds have moved to the other side. Evidence is showing that it is larger than what was earlier thought. He would like to see more home wells sampled around the area twice a year to gain a greater understanding of what is going on.

Judy Ohannesian stated that the extraction wells are on the east side and the compliance wells are on Robb Farm Road. What concerns her is that the monitoring wells are still over the HRL limit and have been over the limit for a long time. There have been several detections at the opposite end of West Shore Road, Hummingbird and East Oaks. What has not been known is the size of the plume, but now it is spreading to Heron Lane. She feels this is a game changer. The Mayor stated that her comments would be forwarded to Wenck and Associates and MPCA but that there is no way to determine what direction the compounds will go and they will be around for years to come. However, the Mayor stated it appears to be time to look at what is happening because the plume is moving to the north and the southwest.

Ms. Ohannesian would like to know what the shape of the plume actually is and what should be done to protect North Oaks.

Council Member Ackerman clarified what Ms. Ohannesian wanted to know when the City contacts Wenck and Associates. She would like to see if more monitoring wells are needed or a plan on what should be done at this time to contain the contaminants.

City Administrator Coleman also heard from a few other residents in regards to this issue. Mr. Jeffrey Apland at 2 Thompson Lane, Faith Ralston and Philip Brown at 24 Duck Pass Road contacted her. Mr. Waterman discussed the issues. Ms. Ralston and Mr. Brown would like to see the historical data on past test results. He stated that he could get a CD with the data for them. They also were concerned about the number of VOC's that were tested. He explained that they tested 65-70 different VOC's. They also tested for PCB and TC. They had concern about Lily Pond, but Mr. Waterman needed to get more information on this issue and he will get back to Ms. Coleman once he is clear about what information is needed.

Mr. Apland wanted to know if the site clean-up goals were adequate to stop the migration of the contaminants from reaching the west side of Lake Gilfillan. Mr. Waterman believes that they are protective but that with such a dynamic system it may be a good idea to look at this at this time. MPCA would put out an advisory if any new wells were affected.

Council Member Dunleavy made a motion to direct the Staff to ask Wenck and Associates and the MN Department of Health to look into increasing the sampling rate to twice a year for areas around the new contamination (1, 3, 5, Heron Lane) and look at the movement of these contaminants to see if any additional monitoring wells are needed and to make available the CD ROM of the historical test data. Council Member Nelson seconded the motion and it passed unanimously.

Because of residents attending the meeting, the Mayor moved the staff report on Lake Gilfillan to the next item on the agenda.

Administrative Report

Update on LGWA Water Start Up

Jim Fox, 17 East Gilfillan Road

Jim Fox gave an update on the Lake Gilfillan project. He stated that the project is 95% complete and the filtration system is being tweaked. The large filters have very fine holes to keep out the zebra mussel larvae (which may already be in the Lake due to water fowl). The pumping started about two weeks ago, but needed additional work to make sure the filtration system was working properly. It now appears to be working just fine with over seven million gallons already pumped into the Lake and about 600 million to go.

Soon tree planting and seeding the landscape will begin. By July the pump house should be well screened with landscaping.

The Mayor stated that the 42 or 43 residents around the Lake will be paying over \$900,000 to save this Lake and it is quite a compliment to them for having such strong convictions to do this project.

Mr. Fox stated with the dry spring this would have been a terrible year for the Lake, but now an inch to two of water per week will be added.

Council Member Long asked about a few concerns from one of the residents, Ted Risdall at 6 Willow Road. Mr. Fox explained that he has worked with Mr. Risdall to make the pump house more attractive. Mr. Fox also stated that there is some concern in where trees can be planted due to the many utilities that run under the soil in this area.

A motion was made by Council Member Long to approve the Wenck and Associates report and Council Member Dunleavy seconded it. It passed unanimously.

Council Member Reports

1. Tim Dunleavy

Lake Johanna Fire Board

A Lake Johanna Fire Board report was in the folder. There were about ten incidents since the last report.

Finance Committee

The finance committee met and they are beginning to look at next year's budget.

2. Bruce Ackerman

NOHOA

Council Member Long attended the NOHOA meeting as Council Member Ackerman was not available to attend.

Council Member Long reported that NOHOA made a commitment for a long term strategy for reserves. Former Mayor Tom Watson as well as others are working on this committee. They may need to raise fees in the future. The Mayor and City Administrator are also working with NOHOA on this.

A discussion of the Home of the Sisters of the Good Shepherd property also took place about the ownership of the water. North Oaks Company owns the municipal water at this time.

3. Marty Long

VLAWMO

A short meeting took place. They are working with the St. Paul Water Authority with TMDL studies that are ongoing. The Council has been invited to a meeting at the Watershed on May 3rd.

NRC

The City has received a \$15,000 estimate from the City forester for an Emerald Ash Borer study. The City believes it can do some of the work to bring the cost of this down.

The Deer Feeding Ordinance was also discussed to manage the herd as well as other animals. More will be heard about this in the near future.

Council Member Long also mentioned that articles are now appearing in the North Oaks Newspaper. The first was on deer ticks and the next one will focus on wetlands.

Council Member Long also mentioned that the NRC is looking at helping residents understand why they live here and the balance of nature and what it means to maintain this community. A handout may be created to remind residents of how to be good neighbors.

4. Gregg Nelson

The Mayor and Council Member Nelson completed the annual performance review of the City Administrator Melinda Coleman.

Planning Commission

Mr. Nelson attended the March 29, 2012 Planning Commission meeting. The Variance 12-01 was discussed and denied at that meeting.

The bus tour on March 10th to see the state of the Community was very educational, and Mr. Nelson enjoyed seeing the property at the Home of the Good Shepherd.

At the Pentom meeting on the 27th of March, there were a number of Planning Commission members who attended. Their main concerns were the density and the design of the project.

Mayor John Schaaf

The Mayor met with Bill Foussard from White Bear Lake who wanted information about the Lake Gilfillan project. He asked to tour the facilities to see if a similar system would be of value for White Bear Lake.

The Mayor also had an introductory call with the new Superintendent of the Golf Course and looks forward to meeting him in person.

He agreed with Council Member Nelson that the performance review of Ms. Coleman went well.

He also reported that while in Hawaii, he had a chance to tour Pearl Harbor and found it fascinating.

Administrator Reports

1. Beyond the Yellow Ribbon Community Group- Resolution of Support

This program is to honor and support active members of the Armed Forces and their families. A motion to pass Resolution #1257 to support this program was made by Council Member Dunleavy and seconded by Council Member Long and it passed unanimously.

2. Contract for Temporary Financial Services

Council Member Dunleavy reported that the City has been using the auditor for a number of services including budget development, helping establish procedures and protocols, and advisory services. However, the auditor is more expensive. The work load for city investments, best practices, internal controls and fund accounting have increased, but this work could be done by someone who is less expensive.

The Finance Committee and Ms. Coleman would like to use the services of Sue Iverson who is the Financial Director at the City of Arden Hills. Her contract would start May 1st, and would be limited to 24 hours a month at \$45.00 an hour. The Mayor believes she is a good fit and would definitely be more cost effective. She also would modernize the budget models early on so that a new model could be used for next year's budget. The City Administrator would monitor this work and it would be paid for by the increase in building permits.

Council Member Ackerman believes that having a cap on the amount of the contract is a good idea. Mr. Ackerman stated that after a conversation with Ms. Coleman, he hoped it could be even less expensive. The Mayor stated that there is a start-up time and cost, and the contract can be ended at any time.

Council Member Dunleavy made a motion to approve the contract between the City of North Oaks and Sue Iverson for financial services capped at no more than

\$7,500. The motion was seconded by Council Member Ackerman and passed unanimously.

3. 2012 Budget vs. Actual Expenses to Date

Building permits are up over what the budget states which is positive. The Lake Gilfillan line 247 states the professional services for the project. Ms. Coleman is preparing the total for the Lake Gilfillan project.

4. EAB Plan: Phase

This item was discussed earlier in the meeting.

City Attorney Reports

1. The Lake Gilfillan Project Process

Ms. Coleman will prepare the assessment roll which sets forth all of the costs of the project and spreads the cost across those parcels who benefit. It will then go to the City Council for approval. Then notice of the approval hearings will go out two weeks before the hearing.

At the hearing the assessment will be adopted. This can be done as soon as the project costs are known and the latest it can be done is by the September City Council meeting. This allows time for those who want to pay the assessment off without interest before the remainder assessments are forwarded to Ramsey County in November. Once the City knows how many will prepay, the size of the bond will then be known.

A motion was made by Council Member Dunleavy to direct the staff to prepare all work for the bonding to be done no later than the August meeting. The motion was seconded by Council Member Long and it carried unanimously.

Miscellaneous

June 2 is the North Oaks Community Fair.

Next Regularly Scheduled Council Meeting – Thursday, May 10, 2012 @ 7:00 pm in the Community Meeting Room

Next Natural Resource Commission Meeting – Tuesday, May 1, 2012 @ 7:00 pm. in the Community Meeting Room

Next Planning Commission Meeting – Thursday, April 26, 2012 @7:00 pm in the Community Meeting Room

Adjournment

On motion duly made by Council Member Long , seconded by Council Member Nelson and carried unanimously, the meeting was adjourned at 9:29 p.m.

Attest:

Respectfully submitted,

Mayor John Schaaf

Linda M. Hanson
Recording Secretary