

## **MINUTES OF THE REGULAR COUNCIL MEETING**

**May 9, 2013**

The Council Meeting was called to order at 7:01 by Mayor John Schaaf at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council Members Bruce Ackerman, Mike Egelston, Marty Long, Gregg Nelson and Mayor John Schaaf. Also present were City Administrator Melinda Coleman, City Attorney David Magnuson, Recording Secretary Maureen Geier and Videographer Kevin Scattum.

### **Pledge of Allegiance**

Mayor Schaaf called for a quiet reflection for Council Member Ackerman's loss of his mother-in-law, Doris Winehagen, and in honor of Memorial Day and those who lost their lives to protect our freedom. Council Member Ackerman thanked the Council and Staff for the much appreciated memorial flowers.

### **Approval of Agenda**

Council Member Marty Long moved to approve the updated Agenda. The motion was seconded by Council Member Bruce Ackerman and passed unanimously.

### **Citizen Comments**

#### **Rajendra Dhir, 4 Red Barn Road**

Resident Dhir came to the podium to express his concern regarding the recent traffic accident on East Pleasant Lake Road and East Oaks Road on March 21, 2013. Two North Oaks residents, Pramod and Shashi Chopra at 5 Gadwell Lane, were involved in this accident which left Shashi blind due to the air bag deployment. He would like to see something happen to prevent another accident like this in the future. He stated that he believed there was some confusion by an outside resident as to which road was the main artery. Because of this, the driver took a sharp left onto East Pleasant Lake Road which led to the head-on accident. He believes the Council should look at this area and perhaps add signage. He does not want to see a tragic accident of this nature go in vain. The Mayor stated that City Administrator Melinda Coleman will make recommendations during her report to address his issue. Mr. Dhir also stated that eye trauma is very common in accidents especially for women due to their smaller size. He suggested that women use a pillow and be mindful of how close they are to the airbags.

### **New Business**

#### **1. Status Report on the Annual Monitoring Program from Wenck and Associates**

Shane Waterman came to the podium to summarize the Annual Report and the ongoing environmental activities taking place at the Highway 96 Superfund Site. Conestoga, Rovers

and Associates work on this site. They did numerous activities last year including the following:

1. The most consistent activity was Source Control. They operate a ground water pump and treatment system. This includes two deep ground water wells and a shallow ground water sump. The sump (located in White Bear Township) pumped about 1.5 million gallons of water which equated to one pound of VOC removal (the contaminant they are removing from this site). In the deeper ground water extraction wells located in the lower sand unit the first pumped about 5.3 million gallons removing about 6 pounds of VOC's and the second pumped about 5.2 million removing 2 pounds of VOC's. The water was moved to the MCES Sanitary Sewer System. They are trying to control the ground water pollution and need to pump on an annual basis 20 gallons per minute to capture the pollutants. This extends to about a 300 foot radius and keeps the pollutants from escaping and spreading into residential wells.
2. They did a number of routine maintenance items maintaining the pumps at the source.
3. They continued doing residential sampling of wells. They collected 26 samples from April 16 to May 6th, 2012. During that event they also collected samples from 3 wells on Heron Lane as requested by the City as well as Wenck Associates. The results of the overall sampling revealed seven detectible levels of vinyl chloride, the contaminant of most concern. None of the samples were above the State of MN health limit of .2 micrograms per liter parts per billion. EPA lowered the lab detection limits so more were found in this sampling. The Department of Health sent out letters on August 29, 2012 to residents regarding the wells sampled.
4. In October, as part of an annual protocol, the CPA collected samples from 32 ground water monitoring wells and 4 residential wells that are now part of this report. There were no surprises in this sampling. The levels of VOC's remain similar as in the past.
5. In October 2012 the residential wells were sampled again. They attempted to collect from 66 wells and successfully collected samples from 56 of these wells including 1, 3, and 5 Heron Lane. Three of the wells revealed vinyl chloride detection. Two were below the State of MN health limits, but one was above .2. At this residence they needed to in the interim bring in potable water to use. In November, 2012 the MDH issued a well advisory so that the well would need to be replaced. It was replaced in February of 2013 and the old well was abandoned.

The CRA recommendations made in the Annual Report are to continue to run the extraction wells and the sump and continue to sample the ground water monitoring wells on an annual basis (October 2013). They will continue to sample semi-annually the residential

wells including the three on Heron Lane. CRA sent out a proposal to MPCA to assist them in notifying the residents of the first sampling. This letter went out in May. MDH sent notification to CRA that they no longer will be providing analysis of the ground water samples and recommended that they find a new laboratory. They have selected a MN certified lab, Test America out of New York.

The Mayor thanked Shane. Council Member Ackerman asked about 2 Heron Lane, 1 Hummingbird Hill, and 15 West Shore and is concerned about if things are getting worse. A resident called Council Member Ackerman asking if wells could be tested more often in the area where the contaminants are turning up and if a few additional homes could be added that are near the contaminated area. Council Member Ackerman stated that some wells are only being tested annually and he believes they should be tested at twice a year. Mr. Waterman stated that he cannot make the decision, but he can make a recommendation. Council Member Ackerman would like four residences at 1, 3, 5, and 7 West Shore Road added to the semi-annual testing as it appears that the contaminants could be spreading. The Mayor stated that the Federal government establishes the guidelines and the MN Department of Health then makes the final decision. This could take months. The Mayor asked the Council if they would like to make this request to add these addresses to the semi-annual list. Council Member Long asked if there is an opinion on why the plume might be moving in a new direction. Mr. Waterman stated that the plume may be moving in that direction based on the pumping. There is a municipal pumping well that may be adding to the direction of this plume. Vinyl chloride is the last compound to break down and shows up at the front end of a plume.

A motion was made by Council Member Long and seconded by Council Member Ackerman to direct the Staff to work with Mr. Waterman and Wenck and Associates to change and add the frequency of the testing for 1, 3, 5, and 7 West Shore Lane. The motion carried unanimously.

Council Member Long asked about the testing and wondered if the new lab could impact the results. Mr. Waterman explained that any lab that works in Minnesota must be certified by the Department of Health and use the EPA standards for equipment and methodology. The results should be consistent. Council Member Nelson asked why the lab was changed. Mr. Waterman explained that Minnesota Department of Health cannot handle the volume of private wells, so they are reducing their work load and doing state work only. Council Member Nelson also asked about the residences at 12 and 13 West Shore Road that are not sampled yet were in the past. The Mayor stated that they have replacement wells so no longer need to be sampled.

The Mayor asked about the breakdown of vinyl chloride. Mr. Waterman stated that it takes a long time as the compound is quite persistent and hard to get rid of. It could take decades to break down this compound. The report will be on the website once the Annual Report is approved.

Council Member Long made the motion to approve the Annual Report and Council Member Egelston seconded it. The motion carried unanimously.

### **Consent Agenda**

- 1, Minutes of the Regular Council Meeting of April 11, 2013 for approval
2. Licenses for Approval:  
**Mechanical Contractors: KB Service Co. Practical Systems; KRAFT Contracting LLC**  
**General Contractors:**  
**Arborists: Alex's Lawn & Turf**  
**Sewer/Water Installation:**
3. Claims for Approval: Check numbers 10487-10520

Council Member Ackerman made the motion to approve the Consent Agenda and Council Member Egelston seconded the motion. Council Member Ackerman asked about the cost of the Franzen litigation fees and asked if this would be recouped by the City. City Administrator Coleman explained that the amount is the co-pay that must be paid for by the City. It amounts to ten percent of the total cost and is the cost of enforcing the City's ordinances. The motion carried unanimously.

### **New Business Continued**

#### **2. Update on City Fund Balance Policy**

City Administrator Coleman explained that the Finance Committee met with the City Auditors to go through the Preliminary Audit Report which will be presented at the next Council meeting. The City policy in practice has been to keep a 60-70% unrestricted fund balance in the General Fund. The auditors are working under this policy which was adopted on December 15, 2011. In that policy it was agreed to keep 40-50% in unrestricted funds in the General Fund; however the philosophy of the City is to keep not less than 60 to 70-% unrestricted funds. Ms. Coleman explained that the document change she is requesting is based on a suggestion by the City auditors. The proposed change is to increase the current 40 to 50% fund balance to 60 to 70%. Council Member Nelson and Mayor John Schaaf discussed this and in the Finance Meeting and are recommending that the change be made.

Mayor Schaaf explained that the City is a "pay as you go" city and has only had one experience which included borrowing for the Lake Gilfillan Water Project. The City gets reimbursed for taxes in May and at the end of the year; but the City does not know the exact amount they will receive due to deductions from unpaid taxes. The City pays bills based on the money in the checkbook.

Council Member Ackerman made the motion to change the City Fund Balance Policy to read that no less than 60 to 70% of unrestricted funds be kept in the General Fund Balance. Council Member Nelson seconded the motion and it passed unanimously.

### **Council Member Reports**

#### **1. Council Member Mike Egelston**

##### **NOHOA**

Council Member Egelston attended the NOHOA meeting. He stated that it was all NOHOA business and that the new Executive Director Dale Powers was introduced. He started his work at NOHOA on April 29th, 2013.

#### **2. Council Member Bruce Ackerman**

##### **VLAWMO**

Council Member Ackerman stated that a regular meeting for VLAWMO did not take place this month. He did attend a Treasurer's meeting regarding the budget and stated that they are a very frugal organization with low administrative costs. They want to ensure employee retention and may realign a few expenditures and increase their budget slightly to help pay for health premiums.

After the Finance Committee Report, Council Member Ackerman corrected his earlier statement and noted that there was a VLAWMO meeting last month and mentioned that they are checking some of the lakes for water clarity. These include Wilkinson, Black Lake and Deep Lake. A discussion of political influences was also discussed.

#### **3. Council Member Marty Long**

##### **Planning Commission**

The Planning Commission did not meet in April.

##### **NRC**

The NRC held their first 2013 meeting. The NRC added two new members due to retirement plus the addition of a NOHOA member. At the meeting they outlined their ten working points and it became clear that the interaction and synergy with NOHOA will be a key asset and will involve working closer with NOHOA. Since the homeowner's own all the property in the City, it is difficult to make big changes on the land. But by educating the homeowners, changes can be made. Forest projects have been successful and a \$75 fee has been established for homeowners to have their property evaluated by the City Forester for the Emerald Ash Borer. The focus for the NRC in 2012 was a deer management program which appears to be working to create a healthy herd. Letters have been sent out to educate those feeding deer. They are also writing letters about issues such as deer ticks, invasive species and being good neighbors.

In 2013 the focus will be on creating a healthy forest. This includes dealing with the EAB issue and creating a five year plan and later a fifty year plan to protect the City forests. In 2014 the focus will be on water issues in the City. City Administrator Coleman added that the Chair of the Committee, Bob Larson and the Vice-Chair Kate Winsor were elected. A good discussion of EAB took place and Mark Rehder has been invited to come to the next meeting. Mark will also be attending the Garden Club event to inform residents of the new EAB inventory program. Ms. Coleman also met with the NOHOA Executive Director Dale Powers and feels that there will be collaboration opportunities in the future. Overall, Ms. Coleman stated it was a very positive meeting.

Council Member Long mentioned that the storm management plan (MS4) will be a future issue and that Lake Gilfillan may come off the impaired water list. Council Member Egelston stated that it is currently up five feet.

Council Member Long mentioned the VLAWMO Tech meeting taking place. Ms. Coleman stated that this is a good way to become familiar with water, quality and storm water issues and believes that NRC members would benefit by attending. NRC member Chris Mann has been going for years.

#### **4. Council Member Gregg Nelson Lake Johanna Fire Department**

The Lake Johanna Fire Department did not meet last month. They had about 25 incidents in North Oaks in April.

### **Finance committee**

The Finance Committee met with the auditors to review the initial Audit report.

### **Mayor John Schaaf's Report**

Mayor Schaaf attended the Finance Meeting. The auditors will be at the June meeting. The auditors' main concern was the delegation of responsibilities. The Mayor explained that because the City has such a small staff it is not possible to delegate; however, the Council reviews all expenses on a monthly basis to oversee all expenditures.

The Mayor attended a meeting with the City Administrator Coleman, Building Inspector Schmit, and Council Member Egelston to discuss monuments and sight lines. This may become a joint project with NOHOA and the ASC sometime in the future.

The Mayor attended two Shoreview meetings, the Planning Commission and City Council Meetings. Although Shoreview is about five times the size of North Oaks, the practices and protocol followed at the meetings are much the same. He also attended a meeting with Ms. Coleman and the North Oaks Company regarding Rapp Farm on April 16<sup>th</sup>, 2013.

Next week Mayor Schaaf will attend the Ramsey County Sheriff's meeting as the alternate for Ms. Coleman.

### **Administrative Report**

City Administrator Coleman addressed the concern expressed by resident Dhir earlier in the meeting. He would like the City to address the issue of traffic signage or traffic issues at the intersection of East Oaks Road and Pleasant Lake Road to avoid any further tragedies at this location. Ms. Coleman explained that in this situation the Council should decide as the policy makers to direct the Staff to spend time and resources looking into this issue. If asked to do so, she would first call the City Engineer consulting firm and ask for a traffic engineer to look at the situation. She agrees that perhaps a directional sign may be a good idea.

Council Member Nelson moved to direct City Administrator Coleman to consult a traffic engineer and make recommendations regarding this intersection. Council Member Long seconded the motion and it carried unanimously,

City Administrator Coleman suggested that the Council not discuss the Rapp Farm Traffic concerns due to the lack of a neighborhood representation. The Mayor suggested a motion be made to formally accept the request. Council Member Long made the motion, Council Member Nelson seconded it and it passed unanimously.

### **Report Items:**

#### **1. 2013 Budget vs. Actual Expenditures**

At this time the City is using reserve funds until the first half of property taxes are paid by the County. The City is on target and within budget or slightly ahead based on license applications, permits, and reimbursements of services.

On the expense side, the City is over budget due to the Municipal Court item for the City prosecutor. The City was required to pay a co-payment to the League of MN Cities Policy for hiring an attorney to defend the City in the pool litigation. Council Member Long asked if this would raise the premium and Ms. Coleman stated that she did not think so. She stated that enforcement of the City Ordinances that involves litigation does come with a cost.

Mayor Schaaf addressed the viewing audience and stated that three members of the community sued the City over the ordinance requiring a fence around all pools. The case went to district court and then to appeals court and in both cases, it was ruled that the City has the right to enforce its laws (ordinances) to protect its residents.

Overall, Ms. Coleman stated that the Budget is under for average expenses and is on target at this time.

#### **2. Update and Status on the Charley Lake Project**

At this time, the City has an application for a final plan approval for the Charley Lake Project; however, the application was deemed not complete by the City Planning consultants, MFRA. There are items that need to be addressed before it can proceed. One is that the City needs to have a joint power of agreement between the Developer and the City of Shoreview for water service. Also, the process of how the application should proceed needs to be finalized. In the present zoning code, the applicant could go directly to the City Council at this point and then it would go to the Planning Commission. City Administrator Coleman would like to suggest that it first go to the Planning Commission on May 30, 2013. This would not be a public hearing, but the interested parties in the neighborhood would be invited.

If the joint powers agreement with Shoreview is not completed, Ms. Coleman does not see a reason to bring the application to the City Council. She stated that the City is protected on the time frame until all conditions are met. City Attorney David Magnuson reaffirmed that if there is a letter sent to the applicant within ten days stating that it is not complete, the 60 day time limit does not go into effect until it is complete. The letter has been sent.

Ms. Coleman stated that after the Planning Commission meeting in May, there would probably be a joint work session with the Council and members from the Planning Commission to work on the details. In answer to Council Member Ackerman's question, Ms. Coleman stated that it would not be acted on at the June Council Meeting as far as she can see. Mayor Schaaf stated that 58 or 59 items still need to be addressed. He also suggested that the City Council members attend the Planning Commission meeting if they can as it will be beneficial to the process.

City Administrator Coleman brought up another issue regarding this development. In North Oaks the RSL or Registered Land Survey method has been used to divide the properties. This system is rarely used today. The Developer would like to plat the property. The City Staff and City Attorney are in agreement that this would be an acceptable way to do so. It is easier to identify the parcels and it uses terms that are familiar in most communities. The RSL system started back in the 1950's when homeowners began to own the roads.

A motion was made by Council Member Nelson and seconded by Council Member Egelston to put the Application on the Agenda for the next Planning Commission meeting on the 30<sup>th</sup> of May, 2013 and on the Agenda for the 13<sup>th</sup> of June to the City Council if ready. The motion carried unanimously.

3. City Administrator Coleman gave an update on the Diseased Tree program. A report from Mark Rehder, City Forester, was given to the Council. The City worked with 18 properties that had trees with Oak Wilt. All are now removed and only one resident did not comply. The tree was removed and the homeowner will be assessed the cost of removal.
4. Ms. Coleman announced that the Ramsey County League of Local Governments has an annual meeting that is hosted by a different city each year. This year, the City of North Oaks will host the event in November at the Country Club. There will be a cost to do so, but it is North Oaks turn and there are funds in the budget for these types of city expenses.

5. Ms. Coleman also announced that she met with the Mayor and Building Inspector to review an ISTS variance. They signed off on this Administrative Variance for the system at 13 Pheasant Lane as it meets the requirements in the City code. Informing the City Council of Administrative Variances is part of the process.
6. Finally, Ms. Coleman thanked the Council for allowing her to attend the State City's Manager Conference. She attended good meetings and enjoyed the keynote speaker, Don Shelby and another speaker who spoke about The Rise of the Creative Class. Mr. Shelby talked about the importance of building strong relationships with local media and newspapers. The second speaker talked about the next generation of wealth building and job creation which will come from the people who use their intellect. He identified Minneapolis and Chicago as one of the major areas for this growth.

### **City Attorney Reports**

1. No special report tonight.

The Mayor introduced the new Executive Director, Dale Powers, to the Council. Mr. Powers came to the podium and stated he is the first Executive Director of NOHOA. He has been attending a lot of meetings since he started. He hopes to bring guidance and direction to NOHOA. Formally he was the City Coordinator for Birchwood, MN. He was asked why the position was created and he stated that was a question for the Board. However, he also stated that due to the complexity of running an association today and the amount of time needed, he is hoping he can take the work load off of the volunteers making their job more enjoyable and also act as a liaison if needed.

### **Miscellaneous**

**Next Regularly Scheduled Planning Commission Meeting May 30, 2013 @ 7:00 pm in the Community Meeting Room**

**Next Natural Resource Commission Meeting June 4<sup>th</sup>, 2013 @ 7:00 pm in the Community Meeting Room**

**Next Regularly Scheduled Council Meeting June 13<sup>th</sup>, 2013 @ 7:00 pm in the Community Meeting Room**

**The North Oaks Community Fair will take place on June 8<sup>th</sup>, 2013.**

### **Adjournment**

On motion duly made, the meeting was adjourned at 8:25 pm.

Attest:

Respectfully Submitted

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Mayor John Schaaf

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Maureen Geier  
Recording Secretary