

The Council Meeting was called to order at 7:05 p.m. by Mayor Gregg Nelson at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Mayor Gregg Nelson, Councilmembers Rick Kingston, Marty Long, and Kara Ries; City Administrator Mike Robertson, City Attorney David Magnuson, City Planner Bob Kirmis, Recording Secretary Deb Breen, and Videographer Maureen Anderson. Councilmember Katy Ross was absent.

**Pledge of Allegiance**

**Approval of Agenda**

**Council Kingston moved to remove Meeting Rules for Decorum in favor of doing this another time. Councilmember Long seconded and passed unanimously.**

**Councilmember Ries moved to approve the revised Agenda. Councilmember Kingston seconded and passed unanimously.**

**Citizen Comments**

Lisa Dujmovic -15 Black Lake Road. She requested that residents be allowed to discuss items that are on the agenda. She understands that Council may not take action on new topics brought up by residents the same evening they were voiced.

Don Nightingale – 11 Nord Circle. He would like the Mayor to explain the reason for the new policy regarding the Planning Commission composition.

Franny Skamser-Lewis – 3 Red Maple Lane. She asked for confirmation that Rules of Decorum was dropped from agenda and received it. She would like explanation on how Rules of Decorum are different than Ordinances. Attorney Magnuson stated that no public hearing is required for approval of Rules, but a public hearing is required for Ordinance changes.

Steve Elias – 5 Sunset Lane. He read a letter regarding changes in membership regarding Planning Commission composition. He asked that both sides deescalate the rhetoric. He feels that both sides need to pay attention and prevent words from escalating issues.

Bill Ecklund – 15 Larkspur Lane. Mr. Ecklund read from a document titled the Rules of the City of North Oaks regarding Agenda and Conduct for City Council meetings dated November 5<sup>th</sup>, 1992. These rules were adopted after the ordinance was adopted that created rules for City Council meetings and feels those rules should still govern City Council meetings.

**Consent Agenda**

1. Minutes of the Regular Council Meeting of May 9, 2019 for approval.
2. Minutes of the Natural Resources Commission meeting of May 16, 2019 for approval.
3. Minutes of the Planning Commission meeting of May 30, 2019 for approval.
4. Proposed Variance 19-03 –ISTS 1 Wishbone Lane - 30 feet into the 30 foot setback on the West side of the Property

5. Approve Resolution 1349 Amending the 2017 Joint Powers Agreement with Vadnais Lake Water Management Organization – To add language to Clarify Liability and Extent of Insurance Coverage.

**Licenses for Approval:** Binder Heating & Air Conditioning; Dok's Heating and Air Conditioning; Home Energy Center, Select Mechanical Services

Approval of Claims: Checks #013251-013290

**Councilmember Kingston motioned to approve the Consent Agenda, Councilmember Long seconded. Unanimously approved.**

### **Petitions, Requests, & Communication**

#### **Appoint Andrew Hawkins to NRC**

Mr. Hawkins introduced himself as a resident who moved to the North Oaks in June. He is a Microbiologist by trade and has experience previously in Parker, Colorado as part of the Parker Cultural and Scientific Commission. He enjoys applying skills from his day job into the community and is looking forward to engaging the community and being an active part in preserving and enhancing our natural resources.

**Motion was made by Councilmember Long to appoint Andrew Hawkins to the Natural Resource Commission, seconded by Councilmember Ries. Unanimously approved.**

### **Presentation of 2018 Audit**

Justin Nilson from the firm Abdo, Eick, & Meyers gave their presentation on Annual Financial Audit of the City of North Oaks. He thanked Council, Administrator Robertson and Deputy Clerk Marty for assistance in pulling the needed information together. They found clean audit with no issues. There were only 2 findings which are very common in small cities:

- 1) The Auditor prepares financial statement on behalf of the City, based on information provided.
- 2) There is a limited segregation of duties – very common for small organizations with a limited number of people doing the financial transactions.

Financial results: Over the last five years the City has maintained a fund balance reserve of about 60% of the overall budget. The General Fund will always need some reserves to pay bills due to tax receipts arriving only twice per year. Key points mentioned:

- Property taxes make up the bulk of revenues.
- Public safety is biggest item of spending.
- The Lake Gilfillan bonds mature in 2023. There is currently a \$150,000 cash reserve available plus assessments to pay the \$285,000 in remaining payments.
- Utility Funds. In 2018 receipts were lower than disbursements. The City's target cash balance for the Utility Fund is \$450,000. Currently the balance is \$367,942. Administrator Robertson stated that there are 11 neighborhoods where sewer and water systems are still independently run. Eventually the City will be responsible for water/sewer for those neighborhoods as well.

- Overall the City is doing well financially.

**A motion was made by Councilmember Ries to accept the 2019 Audit as presented. Seconded by Councilmember Kingston and approved unanimously.**

### **Deputy Mike Burrell Report:**

- Deputy Burrell reported that a repeat trespasser was found to be a Shoreview resident who would walk to the liquor store and go back to his home through North Oaks. He was arrested and ticketed for trespassing. He has not been seen since on North Oaks property.
- There was an early morning burglary. The burglars gained entrance to a garage by entering an unlocked car and using the garage opener. The home was unlocked and a wallet, keys & car were taken. There have been dozens of similar robberies reported across the metro area. The Sherriff's department has made some arrests and the department continues to work on the case.
- Trespassing is an issue. If there are people you think don't belong here, call 911.
- Pedestrian safety, motorists need to slow down and be aware. Pedestrians need to walk on the proper side of the road. Let Deputy Burrell know if speeding is an issue in a certain area and he will put speed enforcement in place.
- Councilmember Kingston mentioned that he has had a conversation with NOHOA President Kathy Emmons about how as the community grows both groups need to tackle security together. He noted that the NOHOA Facebook page is not the most efficient method of reporting incidents and encouraged residents to call the Sherriff, Councilmembers or staff for a quicker response.
- Councilmember Ries suggested we look at making the trespassing ordinance stronger. Deputy Burrell mentioned he is working with Administrator Robertson on this. Robertson said he would put this item on the next Council agenda.

### **Unfinished Business**

#### **1. Approve Resolution 1350 Approve Submission of Comprehensive Plan to Met Council**

Administrator Robertson presented the Comp Plan which was recommended for approval by the Planning Commission. Once the Comp Plan is submitted to the Met Council, it will be returned with feedback to be revised. Other cities have gotten multiple pages of requests for changes from the Met Council and he expects the same. Councilmember Long asked what housing unit numbers are being submitted. Councilmember Ries indicated that the tables have been updated based on known information at this time. The final unit numbers will be updated after the upcoming decennial review with North Oaks Company.

Councilmember Ries asked if there was a written checklist for what is needed to be in Comp Plans. Planner Kirmis stated there are system statements that show what the Comp Plans should contain. Planner Kirmis will forward the system statements to Robertson to send onto Council. Councilmember Ries discussed the items added to the Comp Plan under resiliency.

Councilmember Ries asked for 3 non material changes be made to Comp plan: Page 10, the number of Non-NOHOA homes should be 15. Page 25 Table 2A under commercial mixed

use 50.42 should be changed to 48.92. Table 20 should add to the label “ Non-public and private”. Councilmember Kingston asked for clarification that the changes were not ones that needed to be approved again by Planning Commission. Robertson agreed they were non-material.

**Councilmember Long moved to approve Resolution 1350 to forward the current Comprehensive plan to the Met Council for their review. The motion was seconded by Councilmember Ries and passed unanimously.**

## 2. Public Hearing for Proposed Ordinance Chapter 34 Related to Planning Commission Structure, Composition and Authority

Mayor Nelson reviewed the reasons for proposing a change to the language regarding the Planning Commission. The proposed ordinance would repeal ordinance 150.075-150.077 and replace it with the new Title 3, Chapter 34. He believes the current ordinance was poorly drafted, is laid out in an unusual order and needs to be tightened up to ensure the Planning Commission is independent from the Council. The proposed changes do not change the Planning Commission’s responsibilities. The changes include: allowing 1 City Councilmember to serve on the Planning Commission as a Liaison, outlining an attendance requirement, and allowing the City Council to remove a Planning Commission appointee with or without cause with a majority vote. He feels these guidelines are consistent with neighboring cities and that Planning Commission representatives should be separate from the City Council to ensure unbiased votes at both levels and not take up a seat that another interested resident could hold. The Planning Commission is a 7 member body that is a valued advisory body that takes on the hard work of vetting land use applications and evaluating the merits using their expertise and experience.

### **The Public Hearing was opened at 8:05.**

John Murphy – 6 Evergreen Road. He is opposed to changing the ordinance to remove Planning Commission members with 3 votes instead of 4 votes. Mayor Nelson mentioned that other votes to appoint Commissioners are a majority vote and asked Mr. Murphy his opinion on this.

Dave Plummer – 14 North Deep Lake Road. He asked why a change to the ordinance is needed now if the system is not broken. This comes on heels of contentious meetings in which residents were well represented by members of the Planning Commission that provided valued input. It’s worked well in past and he believes a decision should be made based on our unique circumstances, not what neighboring communities do.

Joanne Hanson – 5 Sumac Lane. She is opposed to the proposed ordinance and asked for her previous written comments be submitted into the record. She believes we are not like other communities. This ordinance permits just 3 Councilmembers out of 5 to remove Planning Commission members for any reason. She questioned why a resident would agree to a 3 year appointment to Planning Commission knowing they can be removed at any time. She believes it actually removes much needed checks and balances and allows

just 3 people to have the ability and power to shape every decision of the City Council and Planning Commission.

Franny Skamser Lewis – 3 Red Maple Lane

She is pleased that the North Oaks News article provided information and clarification on this topic. She has done some research and spoke with Richard Painter who is a University of Minnesota law school professor. He believes the purpose of any government committee is to review and act as an advisory. She believes eliminating the “cause” requirement can allow potential for corruption.

Rich Dujmovic – 15 Black Lake Road. He is opposed to the ordinance. In regards to the topic of potential bias of having Councilmembers also on Planning Commission he sees the Commission working together respectfully as a team right now. The City will have opportunity to appoint several new Commissioners when terms are up at the end of the year and questions why it must be done now. He feels we have a great Planning Commission in place now.

Cheryl Blackford– 7 North Deep Lake Road. She is opposed to changing the ordinance. Per the Mayor’s article in the North Oaks News she is concerned about Council interference in the Planning Commission process. The 3 out of 5 vote seems to be City Council interference. This proposed ordinance seems unnecessary when the Planning Commission process has served us well in the past.

Bill Ecklund – 15 Larkspur Lane. He believes there are basic structural problems with the ordinance and asked the Mayor to clarify if this is a repeal or change. He asked if Chapter 150.078 regarding Comprehensive plan is still in place. Mayor Nelson indicated that 150.078 – 150.083 should be left unaffected. Mr. Ecklund thinks that the Council shouldn’t take any action until the ordinance is revised.

Jeff Zinn – 51 East Pleasant Lake Road. He is concerned with Section 34.03 Terms, Oaths and Vacancy. He has reviewed other City ordinances and he believes the sentence “will be removed the effective date they were sworn into the City Council” should be removed from the proposed ordinance.

Susan Hinrichs – 55 East Pleasant Lake Road. She asked if approved when the ordinance would take effect. Administrator Robertson stated it would be when it was published, which would be approximately 30-40 days after it was approved. She asked the Mayor to describe the conflict of interest. Mayor Nelson stated that the 2 members of City Council that are also on the Planning Commission have the potential to vote in two different ways. Ms. Hinrichs doesn’t believe the members have a conflict of interest.

**With no further comments the Public Hearing was closed at 8:36 p.m.**

Administrator Robertson and City Attorney Magnuson stated they do not believe that members of Planning Commission need to be members of NOHOA. Mayor Nelson agreed this change in wording is a good idea.

Mayor Nelson asked Attorney Magnuson if he has any input on the “removal without cause” wording. Magnuson sees the opportunity to be heavy handed and there is a danger in having power to remove without cause. He believes it should state removal is with cause only. Mayor Nelson agreed to this change, and mentioned that every ordinance currently requires a 3-2 vote to pass. Councilmember Kingston doesn’t have an issue if the vote to remove a Commissioner requires less than four votes as long as Councilmembers cannot be on the Commission. He is concerned if Planning Commissioners were also on the City Council then we could never get to a 4/5 vote to remove them.

Councilmember Kingston stated the current ordinance does not give a limit to the number of Planning Commissioners that can be on the City Council. With an election coming up, he wants to ensure lots of resident input and the inclusion of new residents. He believes we have lots of talented individuals to appoint to the Planning Commission and would like to see advice from an independent Planning Commission and then let the City Council make the final decision. He stated the last time we had Planning Commission openings there were 9 very qualified applicants, some of which we didn’t have positions available to appoint. He is concerned with having too much power in the City Council and prefers to have a completely independent Planning Commission. He is supportive of having 1 or 2 Councilmembers assigned to the Planning Commission as non-voting liaisons. He would prefer wording that there could be a transition period to appoint new Planning Commissioners with a newly elected Councilmember staying on the Commission for a maximum of 6 months to help in training and assisting the new commissioners.

Councilmember Long said when NRC was formed they looked at the Planning Commission as a model. He would like to see the Planning Commission be able to make their own rules, have bylaws for attendance and to appoint its own Chair. He doesn’t want two Councilmembers on the Commission.

Councilmember Ries feels the Planning Commission is an important body in the City and they do time consuming work to come to an independent evaluation of each application. She doesn’t see any concerns with the current structure. She feels that valid reasons for ordinance changes include: address something wrong, comply with state law, or reduce City risk. She feels it has been valuable for her to be part of the Planning Commission, have ability to review the detail and then come to Council with valued input. She indicated that at one time Gregg Nelson was on both the Planning Commission and Council and voted on both during that time. She believes Councilmember Katy Ross has been doing a great job as Commission Chair and feels the Council should just focus on the structure of Planning Commission, and who is eligible to be elected chair instead of changing the entire ordinance. She hasn’t seen any type of misuse of the current structure. This is a unique community, with no full time City Council, Mayor or Commissioners and she feels our ordinances should remain in place to reflect the possible benefits of having overlap of these volunteers. She noted that as the two Councilmembers that are on the Planning Commission, Councilmembers Ross and Ries called residents last fall and asked if they might be interested in joining the Commission. This led to 11 applicants with these personal outreach efforts.

Currently the same person is appointed as both Chair and Council Liaison, however the terms for both Councilmembers Ross and Ries expire at end of year so this will become a moot point. She reminded everyone that there are many important events taking place now including review of the Comp Plan, North Oaks Company development plans, and the East Oaks PUD. There are lots of things to focus on right now except the structure of the Planning Commission. It is currently functioning with well-prepared people and she believes the Council needs to redirect its focus to other long term planning.

Attorney Magnuson stated there are 2 types of conflict of interest: 1. Personal conflicts of interest such as voting on your own projects, and 2) Financial conflict such as voting for financial gain. He sees the issue as members of the City Council who are on the Planning Commission are being paid for being on the Commission and therefore Councilmembers Ross and Ries shouldn't be allowed to vote or there could be potentially a conflict. Councilmember Ries stated that both herself and Councilmember Ross have waived any compensation so this shouldn't apply. Attorney Magnuson thought it still may be a conflict of interest since the issue directly affects them. Councilmember Long wants to get back to business and just vote. Councilmember Ries would like to look into the potential conflict of interest further.

**Councilmember Long made a Motion to approve the new Chapter 34 Ordinance with the following changes: retaining a 4-1 vote to remove a member of the Planning Commission, no requirement of NOHOA membership, removal of Planning Commission members for cause only, there to be one non-voting City Council liaison on the Planning Commission, that the Chair needs to be a member of Planning Commission, any Planning Commission compensation changes would require majority Council vote, the Planning Commission nominate their own Chair and present it to the City Council for the formal appointment, and that a 3 day notice is required for special meetings of the Planning Commission.**

Councilmember Ries believes this ordinance change is a waste of time and it is shameful to be talking about this right now. She feels it is only fair to wait to have Councilmember Ross in attendance to have the opportunity to speak on this issue since she is directly affected. **The motion was amended by Councilmember Kingston with Councilmember Long's consent, to remove the provision for the Planning Commission to nominate its own Chair. Councilmember Kingston seconded the revised motion. Motion was approved 3-1, Councilmember Ries opposed.**

**Process for Reviewing Subdivision Application.** Councilmember Ries feels that the process for reviewing subdivision applications can be improved to help new Planning Commissioners be trained and ready to review applications and track documents as they come in. Ries has put together a flow chart that outlines a process for reviewing applications and to check them against appropriate ordinances. It doesn't reach any legal conclusions but helps remind Commissioners to check the various key documents while reviewing applications coming to the Planning Commission. She will give it to staff, Council and Planning Commission to review for input. The goal is to streamline the process and use

the document to help the Planning Commission. This is a process flow procedure rather than a document issue tracker which has previously been discussed.

### **New Business**

**Pleasant Lake Weed Removal** – Administrator Robertson stated there have been discussions with NOHOA about weed removal. NOHOA has granted the permit to do it this year and weeds will be taken to the Ramsey County compost site.

**Set Workshop for City Attorney Interviews**; Administrator Robertson stated that Council members have agreed on 2 open slots for upcoming workshops. Monday July 8<sup>th</sup> at 5 p.m. has been confirmed with the North Oaks Company as the Decennial Review. Wednesday July 10<sup>th</sup> at 5 p.m. will be the Council interview of the three finalists selected as the potential new City Attorney. A half hour has been allotted for each firm. Mayor Nelson and Councilmember Ries interviewed 9 attorney firms and all were very qualified. Staff will work with Council to find additional workshop times to complete the following: annual review of the City Administrator and discussion of staff needs, complete long range planning, and have Fire Chief Boehlke present the department needs study.

**Discussion of CTV social media proposal.** Administrator Robertson said that CTV is proposing to do 1 free month of social media for the City of North Oaks on a trial basis. If we were to choose to move forward, it would be \$3,000 – 4,000 annually to do this. CTV would provide content and City staff would review and post as appropriate.

**Motion made by Councilmember Long for CTV to do City social media for a month. Seconded Councilmember Kingston and unanimously approved.**

**Discussion of Cesspools** – Councilmember Ries stated that City Septic Inspector Brian Humpal gave an informative discussion at the last Planning Commission meeting on different types of septic systems as part of staff review of a septic variance application. He stated that existing cesspools could affect the aquifer as they have no treatment. Councilmember Ries thinks this topic should be discussed again. Mayor Nelson stated the pushback before was from realtors but he didn't feel good with the decision. Administrator Robertson stated it was thought that banks might require removal of cesspools at point of sale but this has not always happened. Councilmembers Long and Kingston also believe that it is time for it to be readdressed.

Current ordinances do not give Inspector Humpal any authority to enforce removal of cesspool. Councilmember Kingston believes that it should be more than just point of sale regulation. This item will be put on the next agenda.

**Website Update and Budget.** Councilmember Ries requested that funding be set aside to budget for a website update. It will take a while to implement and there are different services at different price points, but we need to know funds are being set aside to begin

this process. Mayor Nelson asked how much may be needed for this. Ries thought a well-designed website will come between \$8,000–\$16,000 and would provide better information to residents while allowing them to more securely conduct city business and process some permits online, as well as better navigate ordinances. All Council members agreed to work on a Communications budget line item for this up to \$16,000.

### **Councilmember Reports**

Councilmember Ries has been working with website providers and working with Deputy Burrell to post some public safety videos on the website. The next video will be on personal safety and how to prevent becoming a target. The Cable Commission is working on the impact of new Senate law 998 and how it will affect cities. She was grateful to be involved in the interview of great City Attorney candidates.

Councilmember Long reported on information from the Fire Department that cottonwood seeds are flammable and can create a fire hazard. He continues to work on bringing fire hydrants into the Nord development. There was no meeting with VLAMO this month. He complemented Councilmember Ross on the success of having 110 mailboxes sold within the community.

Councilmember Kingston is working with Planning Commissioner Mark Azman regarding a home maintenance ordinance. He visited with Administrator Robertson and Deputy Burrell regarding some troubled properties. He is also working with NOHOA on security to determine how to collaborate on our community becoming harder targets. The Tick Task force has closed their survey and will be giving survey results to all the Boards.

Mayor Nelson - no report.

### **City Administrator Report**

- The North Oaks Tick Task Force has won a City of Excellence Award from the League of Minnesota Cities for its efforts to reduce Lyme Disease. The awards presentation is on Thursday June 27<sup>th</sup> in Duluth. Councilmember and task force member Kingston will attend. He will also check to see if he can get someone else from Tick Task Force to attend as well. Members of the Task Force, NOHOA, NRC, and Mayor Nelson were all interviewed on video last Monday, and the feature will be shown to 500 cities at the League of Minnesota Cities Conference. Our Lyme Disease plan will be used by the League as an example for other cities who contact them about the issue.
- 2 Eagle Ridge Conditional Use Permit – Administrator Robertson said the approved CUP stated the property owner would haul dirt off site. Instead they have been spreading it on the property. NOHOA put a stop work order on the property because they did not have an approved landscape plan and the City said no more earth moving until the

owner submits and receives approval for a grading plan. They are allowed to continue work on garage because it will help hold up the hill. There is concern by neighbors' regarding definition of the property line, and possible undercutting of tree foundations when they dug into the embankment. There has been a survey completed by applicant, and the City has recommended neighbors do their own survey if they are concerned with its accuracy. The City is trying to force the construction to move quicker but much of work is being done by the homeowner. The property owner has been cited for not following the CUP and not cleaning up the yard. The City will also require an as-built survey when work is completed.

Resident Sue Casey – 4 Eagle Ridge. She stated the surveyor came back out and the stakes are back in. The bank cut is right on the line. Councilmember Ries believes the homeowner should finish cleanup of the yard, complete the retention wall and that they are in violation of the original CUP approval.

- 14 Lost Rock Rental License – The homeowner completed a 2016 rental application, but never got an inspection because they indicated they did not have a tenant. The current tenant is claiming there is mold onsite. The Building Inspector will be making an inspection of the property next week.

### **City Attorney Report**

None.

### **Miscellaneous**

Next Natural Resource Commission Meeting is Thursday, June 20, 2019 @ 7:00 pm

Next Planning Commission Meeting is Thursday, June 27, 2019, @ 7:00 pm

Next Regularly Scheduled Council Meeting is Thursday, July 11, 2019 @ 7:00 pm

Next Tick Task Force Meeting is Tuesday, July 16, 2019 @ 7:00 pm

### **Adjournment**

**On motion duly made by Councilmember Ries, seconded by Councilmember Kingston and carried unanimously, the meeting was adjourned at 10:05 p.m.**

Attest:

Respectfully Submitted

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City Administrator Mike Robertson

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Debbie Breen  
Recording Secretary