

The Council Meeting was called to order at 7:00 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, Katy Ross and Kara Ries; Councilmember Long arrived at 7:49 p.m. City Administrator Mike Robertson, City Attorney David Magnuson, City Planner Bob Kirmis, City Engineer Paul Pearson, Recording Secretary Deb Breen, and Videographer Maureen Anderson.

Pledge of Allegiance

Approval of Agenda

Administrator Robertson requested to add Social Media under new business. **Councilmember Kingston moved to approve the amended agenda. Councilmember Ross seconded and passed unanimously.**

Citizen Comments -

Franny Skamser-Lewis – 3 Red Maple Lane

She asked whether the City Council could revisit how minutes are recorded. Mayor Nelson stated they would put it on next month's agenda.

Kathie Emmons – 20 Duck Pass Road, President of NOHOA

She stated that NOHOA Executive Director Mikeya Griffin was invited to the East Oaks PDA decennial review discussion. She feels that just inviting Mikeya was not sufficient and that she should have been invited. NOHOA would like to participate in future discussions up front and have a seat at the table.

She added that numerous casual discussions have taken place with North Oaks Company about trails but they hadn't had a formal trail plan because they have a good working relationship with them. NOHOA is willing to stand by the terms in the PDA where there are trails and easements in place. She doesn't believe that the PDA discussions needed to be held up because of trail issues. She is also concerned about tendency to go back through same items in the PDA each meeting. They need to come to decision on the numbers and move the community forward.

Susan Hinrichs – 55 East Pleasant Lake Road

She asked what the next steps are for the decennial review. Mayor Nelson stated that it is on the agenda for discussion tonight.

Consent Agenda

1. Minutes of the Regular Council meeting of June 13, 2019 for approval
 2. Minutes of the Natural Resources Commission meeting of June 20, 2019 for approval
- Licenses for Approval: Legacy Mechanical Services; Kramer Mechanical; Faircon Service Company; Rivard Companies (Arborist)

Approval of Claims: Check#: 13137 - 13172

Councilmember Ries motioned to approve the Consent Agenda, Councilmember Ross seconded. Unanimously approved.

Petitions, Requests, & Communication

Tick Task Force Presentation- Brooke Moore – Chair of the Tick Task Force (TTF) committee shared results of the latest survey. In 2014 the committee was established and on 9/14/2015 the initial efforts on understanding the problem and developing best practices were rolled out. This is a Multi-tier approach focusing on personal protection, landscape and brush removal, mouse reduction, and deer management. The current survey focuses on results of these efforts. The 2019 Survey results monitors the effectiveness of the program, with 133 individuals participating in survey. 40% found a black-legged tick, 15% found an embedded black, which is similar results to prior 2 years. There were 48 comments, with only 2 negatives regarding focus of deer management and use of Acaricides to reduce ticks.

Key points noted:

- Most ticks were found in personal residences and on trails– similar as in past years.
- More evidence shows that ticks were attached less than 24 hours. 42%
- Results show only 1 household had more than 3 members having ticks.
- Age distribution – in all age groups rates of tickborne illness went down except age 60-65.
- Total Cases reported decreased significantly.
- North Oaks used to be 2 times higher than neighbor communities in Lyme Disease. We are now similar to surrounding communities.
- Of those diagnosed, Lyme Disease is the most common tick borne illness reported and most cases were diagnosed via a positive blood test.
- Education –50 sought treatment faster due to more education about Tick borne diseases.
- Acaricides – 77% said they are not putting them on their yards. Of those using them 51% are using a professional service.
- Personal Protection - Repeated emphasis to check clothes, use repellent, etc.
- Mouse control – reducing habitats near homes, etc.
- Deer Management – Studies show now less than 10 deer per/square miles which has a positive effect in reduction of Lyme disease. When starting program, it was at 20 deer per square/mile.
- Next Steps – Results to be shared with residents, continued alerts on when ticks become active, sharing medical care providers that specialize in treating Lyme disease.
- 38 degrees is when ticks become active. Informational Tick handouts on reducing risk can be picked up in the City offices.

The League of Minnesota Cities recently awarded the North Oaks Tick Task Force with the City of Excellence award for the best practices they have developed. There was a video created which will be posted on the City website under TTF. About 500 representatives from around the state got to view this information and share it with their respective cities. Councilmember Kingston thanked Brooke and others for stepping up to create the TTF.

Resolution 1347 -Endorsing Pollinator Protection and Protecting Pollinator Habitat

Kate Winsor – 2 Thrush Lane, Vice Chair of the Natural Resources Committee spoke about the proposed Pollinator Resolution which the Natural Resources Commission was recommending. A resident started the initiative and made the connection with a group of University of Minnesota graduate students. They put together the Pollinator template for this resolution.

Erin Root of Pollinate MN, Education spoke on this topic to encourage this work at the state level as well. She strongly supports the resolution as put forth. Bees are important to the lifecycle of food plants and we continue to lose almost ½ of the colonies hosted by beekeepers yearly.

There are 469 different bee species in Minnesota, and most are solitary. They are in decline due to lack of food and flowers as well as insecticides. Minnesota leads the country in the pollinator policy initiatives, but we are still losing colonies. Councilmember Kingston asked Ms. Root how bees are transported. She stated that 500 hives can be transported at night when they are less active via trucks. Mayor Nelson complimented the Natural Resources Commission in their work in bringing this to the Council.

Councilmember Ries motioned to approve Pollinator Resolution 1347, Councilmember Ross seconded, all in favor, motion carried.

Jim Bowyer-13 Anemone Circle: American Promise

Mr. Bowyer came to discuss the ruling by the Supreme Court in January 2010 known as Citizens United that eliminated campaign contribution limits, giving corporations the same rights and freedom of speech as ordinary people. There is a flood of outside of money into local elections. Local elections are now influenced by this and no longer represent just local people, but instead donors outside of the MN. He believes that the problem can only be fixed by amending the constitution regarding this matter. To make this change, two things need to happen: 1) 2/3 of states can call on Congress to act on this. 2) States themselves can pass resolutions, if 38 states can do this – it would force a Constitutional Convention which can focus on this amendment, it then goes to states for ¾ vote. He is asking the North Oaks City Council to consider a Resolution on this topic. Mayor Nelson stated that the Council would look at this on the next agenda.

Deputy Mike Burrell Report

- Trespassing issue in town last week involving a solicitor with high pressure sales tactics. They were stopped and cited.
- The trespasser from April has not responded to the warrant that has been issued. He no longer lives at the Shoreview address.
- There have been recent scams on Craigslist from people selling tickets to events. People have spoken to what seems a legitimate seller, told to go to online app to pay and no tickets result. The number is a fake number with no way to track. Officer Burrell warns residents to stay away from Craig's list unless meeting in person for a transaction.
- There was an animal issue last week with a dog bite. Animal Control Officer Lee is working on this issue and getting facts to proceed on resolution.
- Mayor Nelson thanked Officer Burrell for his work on the proposed Trespassing Ordinance. Councilmember Long asked when body cameras will arrive and suggested Council discuss if residents should be notified of body cameras when Officer responds to calls. There is no firm date for when all officers will have body cameras.
- Councilmember Ries suggested Officer Burrell give another session on scams to residents at Presbyterian homes.

Unfinished Business

Final Plan Approval-Wilkinson Lake Villas

City Planner Kirmis discussed the Final Plan for Wilkinson Lake Villas. The project is located on Site F off Centerville Road, with 4 units (up to 13 allowed) and is consistent with the East Oaks Planned Unit Development (PUD). A majority of the 36 acres site is devoted to open space. The City Council approved the preliminary plan; therefore, this request is for final

approval. Prior concern was the hammerhead turn around, and therefore the final subdivision has changed to a traditional cul-de-sac. Lake Johanna Fire Department Chief Tim Boehlke has confirmed approval of the cul-de-sac. The final plan does not have any wetland related impacts; however, lot lines have been shifted 70 feet to south towards the wetland to accommodate the cul-de-sac. The floor area ratio complies with City requirements and the homes could be up to 3800 square feet in size. A conceptual plan for the land to the south was presented in the May meeting and consisted of 9 residential lots, which is consistent with the East Oaks Planned Unit Development agreement. There are no minimum lot widths. The Villa homes will have access to the existing trail on the west side of the property. Building architecture will be similar in design as the units to the North. It must meet NOHOA ASC guidelines.

Mayor Nelson inquired for clarification on the lot shifts. City Engineer Pearson confirmed the shift was necessary to redesign to the cul-de-sac. North Oaks Company's Gary Eagles stated that there will be buffer between houses and the wetland area open water pond. It is a self-created open water managed wetland that will be managed by the association.

Engineer Pearson confirmed that they've reviewed the plans for compliance. The Engineers' memo was included in Council packet and it is their opinion that all of the items mentioned can be addressed before any construction occurs on site. Councilmember Ries asked if VLAWMO is involved in the plan and approved the wetland buffer. Administrator Robertson confirmed that meeting VLAWMO requirements is part of the conditions listed, with Councilmember Long clarifying that VLAWMO doesn't get involved at the concept stage – only after it is approved to move forward by the Council. If VLAWMO has any issues at that point, they work directly with the developer and City to resolve.

There was a motion by Councilmember Kingston to approve the Final Wilkinson Lake Villas Plan with conditions identified by staff. Councilmember Long seconded. Motion was passed unanimously.

Discussion of Septic Ordinance

Councilmember Ries mentioned her concern over the remaining cesspools within the city and the lack of an ordinance prohibiting them. Administrator Robertson noted that four years ago staff prepared an updated septic ordinance which would have required septic systems to be compliant with current State law upon point of sale. The point of sale provision was removed from the ordinance with the thought that it was intrusive and that banks would require that septic systems be updated. There are still cesspools in town and some banks do not require a septic system check as part of a sale. Staff would like to see point of sale included in the ordinance. The County recorder would add this to their checklist of requirements for approval of a transfer of the property. This would require a septic compliance report. Attorney Magnuson stated that Washington County has a point of sale ordinance in place.

Councilmember Long moved to set a public hearing on the Septic Ordinance. Councilmember Kingston seconded, and all were in favor.

New Business

Approve 2nd Amendment to the Joint Powers Agreement – VLAWMO

Administrator Robertson stated the amendment allows VLAWMO to bond for funds like other organizations.

Councilmember Long motioned for approval of the VLAWMO Amendment to the Joint Powers Agreement. Councilmember Ross seconded and all in favor.

Discussion of Ordinance 130 Restructuring the Planning Commission

Councilmember Ries brought forth her concerns about the new Planning Commission Ordinance 130, Chapter 34 approved at the last Council meeting. She outlined the importance of reviewing our procedures to ensure Council meetings are unbiased, and Roberts Rules are followed to ensure clear and transparent procedures. She believes that the Planning Commission Ordinance 130 was biased, as evidenced by editors of the ordinance writing an editorial about it in the local paper. She feels those writing the Ordinance should have recused themselves and not voted. She believes there were procedural issues which impact the effectiveness of the ordinance including:

- The notice to the public of the proposed Ordinance 130 was unclear with blanks of missing information upon discussion at the council meeting, leaving those in attendance unclear on what was being approved.
- The proposed ordinance was presented in two documents showing amending Ordinance 150 and new Ordinance 130, instead of in one document as required in Ordinance 31.
- There was no motion or vote to rescind, amend or cancel Ordinance 150, which leaves it open for challenge and confusion.
- Chapter 34 should have been posted on the city website for review and a public hearing reopened for the Council to receive further input.
- The timing of the notice publication in paper doesn't follow Roberts Rules.
- The new ordinance includes conflicting language with other established ordinances and within the ordinance itself.
- The ordinance creates confusion as to role of non-voting member and needs clarity on the role of Council Liaison at Planning Commission meetings.
- The terms of the ordinance voted on were not the same as what was published in the paper (7 days written notice published, while 3 days was voted on).
- The updated ordinance was not formally brought back to the next Council meeting to review the final language for a vote. The updated version was sent to Councilmembers via email by the City Administrator and then published in the paper.
- Councilmember Ries feels that the 2 members of the planning commission were grandfathered in based on legal precedent, and the proposed ordinance 130 does not specifically state it is retroactive.

Regarding the memo presented by Attorney Magnuson, Councilmember Ries believes there was pieces of law mentioned, but left out other key points of case law that states that 1 or 2 members

of City council may serve as voting members of Planning Commission. Councilmember Ries feels that the misguidance of City Attorney effected the vote of Council members, and she doesn't feel that there is a direct personal financial conflict in this case as was implied. She mentioned that Councilmember Ross and herself took steps to waive any financial compensation as part of the Planning Commission to ensure no conflict of interest. The Attorney memo also spoke about negligence; however, she doesn't believe this applies in this case. She feels this is a political issue resulting in a policy change and that the City attorney should represent the entire council, not just the majority. She believes there was no reason to rush this Ordinance because of a conflict of interest, and the result was based on misrepresentation by City Staff, instead of waiting until Councilmember Ross returned to speak on the issue. Councilmember Ries wants to make sure that policy and procedures are followed going forward and believes this is a political issue that does not represent the law and facts.

To resolve the flaws in the way this ordinance was handled, she suggests postponing the effective date to January 1st, 2020, at which time the new planning commission members would begin, and the new City Attorneys would have had time to review the Ordinance 130 Chapter 34 for clarity and resolve any language conflicts. She believes taking these steps and amending the Ordinance now will restore appearance of conflict of interest, preserve the voice of the planning commission, and restore any view that there was impropriety in the passing of the Ordinance.

Councilmember Long noted that there was no difference in how this ordinance was discussed and approved than past ordinances. He mentioned that Councilmember Ries had no problems with previous ordinances but now it seems she has problems with this ordinance because she doesn't like it. Administrator Robertson confirmed the ordinance was published Tuesday, July 9, 2019 as approved by Council. It was sent to all councilmembers for final review before it was published. Attorney Magnuson stated that Ordinance 130 is now in effect, and that Roberts Rules state that a motion to reconsider must be made by a prevailing party.

Councilmember Ross stated that unfortunately she was unable to attend the last Council meeting due to a serious family medical emergency, thereby was not able to participate in the important discussion regarding the composition and future of the Planning Commission. As a member and Chair of the Planning Commission for the past several years, she believes her input should have been considered important enough to be heard in the conversation on this topic and the discussion deferred until the following meeting. She feels that discussing this matter without her in attendance and the City Attorney accusing of her of financial conflict of interest is dirty politics. From the time she was appointed to the Planning Commission in 2008, she has turned down any compensation to avoid any appearance of impropriety and abstained from voting while appointed as City Council liaison. She believes that the new ordinance now gives the Mayor and some members of City Council power over the Planning commission to hand pick the Planning Commission members, as well as decide how they get paid. She doesn't believe the Planning

Commission and City Council is independent any longer because of the new ordinance. She hopes to move forward with a higher level of integrity and transparency that the community deserves.

Councilmember Long said that the Council represents the City and he thinks the new Planning Commission is now more independent without two members of council on it. In matters of voting, majority rules and Councilmember Long stands by his decision to approve the Ordinance. Councilmember Kingston reconfirmed that his decision was based on desire to have a more independent Planning Commission, not on any question of potential financial conflict of interest. Councilmember Ries stated that they all need to play by the same rules, and believes it was messy pushing it through so quickly before it was ready, with flaws in the ordinance. She feels the decisions were misguided based on the City Attorney's memo. She questioned the steps that took place to enact the ordinance and encourages a consistent process to be sure all ordinances are effective going forward.

With no councilmember who had voted in favor of the Ordinance requesting a motion to reconsider, discussion concluded.

Approve Appointment of New Planning Commissioners

Administrator Robertson clarified compensation for Planning Commissioners. The 1999 ordinance stated there was no compensation. Two years later a resolution was passed which provided compensation to Planning Commissioners. Some have waived that pay.

Councilmember Kingston read Resolution 1351 appointing Planning Commissioners based on Ordinance 130 which was approved by Council on June 13, 2019 and published July 9, 2019. He noted the Planning Commissioners appointed and term end date as: Mark Azman – Acting Chair 12/31/20, Nancy Reid 12/31/19, Jim Hara 12/31/19, Joyce Yoshimura-Rank 12/31/20, Stig Hauge 12/31/21, Sara Shah 12/31/21, and Nick Sandell 12/31/21.

Planning Commissioners and the City Council Liaison receive \$30 per meeting, with \$45 per meeting for Planning Commission Chair. Councilmember Long asked how the new Chair had been decided. Mayor Nelson and Councilmember Kingston stated they had both spoken to Mark Azman to see if he was interested. Councilmember Long would like the Planning Commission to have their input on the selection of a Chair. The Council agreed to appoint Mark Azman as acting chair until the Planning Commission could discuss the issue.

Motion made by Councilmember Long to approve amended Resolution 1351 regarding appointment of planning commissioners and their compensation. Councilmember Kingston seconded. Councilmember Ries doesn't believe there are 2 positions open as Councilmembers Ries and Ross should be grandfathered in, and would like the vote to be postponed until after the

new City Attorney is in place. **In favor of the motion were Councilmembers Long, Kingston, and Mayor Nelson. Opposed were Councilmembers Ross & Ries. Motion passed 3-2.**

Approve Revised City Council Responsibilities

Administrator Robertson shared the revised City Council Responsibilities to reflect changes of a new City Engineer, the new Planning Commissioners, and the appointment of Andrew Hawkins to the Natural Resources Commissioner. He mentioned the need to appoint a new Planning Commission liaison. Councilmember Ross recommended postponing any decision on Planning Commission Liaison until later. Councilmember Ries questioned the equity among City Council responsibilities, saying that Councilmember Kingston had more responsibilities than anyone else. Mayor Nelson asked Councilmember Ries to submit a redraft of suggested City Council responsibilities for discussion among the Council.

Approve Appointment of New City Attorney

The City Council completed interviews with the top 3 finalists on Wednesday July 10, 2019.

Motion to approve the law firm of LeVander, Gillen, and Miller, P.A. by Councilmember Ross, seconded by Councilmember Ries. Unanimously approved.

Review of Potential Changes to Trespassing Ordinance

Motion made by Mayor Nelson to table discussion on this ordinance until the new City Attorney is on board. Councilmember Ross seconded, all in favor.

Discussion of East Oaks PDA Decennial Review

Mayor Nelson stated the North Oaks Company said they plan to hold community feedback sessions for proposed future development. Councilmember Ross is concerned that there are still not final residential counts, so there is a need for another workshop. Councilmember Long said North Oaks Company will be meeting with NOHOA re: plans for trails. Councilmember Ries said she has forwarded her research on the count issue to Administrator Robertson for review. Councilmember Long mentioned that the 7th Amendment seems to be where the discrepancy came, and asked Attorney Magnuson to put together an interpretation memo on this as they transition this piece with new City Attorney. Administrator Robertson said the new attorney will also be holding meetings with City staff, Officer Burrell, City Engineers and Planners to be brought up to speed on various issues.

Councilmember Ries stated the last Decennial review was in 2009, and the 7th Amendment was passed in 2010 so believes this is the first formal review of the 7th Amendment to determine if the execution has complied with PDA. Councilmember Kingston agrees that the future numbers are most important to come to an agreement. Councilmember Long wants to wrap it up quickly before any outside forces demand more density.

Council Member Reports

- Kara Ries: Next Cable Commission meeting is July 31st. She has started review of the Trespassing ordinance, reviewed counts for 1999 PDA and held City Attorney interviews.
- Katy Ross: 130 Mailboxes sold to date. The next order will be placed by Wednesday 7/17 by end of day. Recycling/Cleanup day on June 22nd was a great success. 243 cars came to the event, processing 129,000 pounds of material. Cost was \$9,500 out of \$12,000 budgeted. Will receive \$600 credit from Excel energy for light bulb recycling. The City should look at doing this yearly. The shredding truck did 600-700 pounds of paper. She is scheduling another recycling tour at Eureka – date TBD.
- Marty Long: VLAWMO had a packed house meeting about Goose Lake involving otters and the distressed lake/property. The Fire Chief will be discussing the proposed new fire station at the next Council meeting.
- Rick Kingston: NOHOA has been very active working with the Tick Task Force (TTF) and he is grateful to NOHOA for their input. Waiting to get date of body cam installation for our deputy. Weed removal started today on Pleasant Lake
- Mayor Gregg Nelson: He expressed gratitude to the Natural Resources Commission for its work on the Pollinator Resolution, and the TTF on reducing Lyme disease in the City. He thanked City Attorney Magnuson for his work in the City.

City Administrator Reports

1. Upcoming workshops: 7 p.m. Monday, July 22 – will be the PDA review and 7 p.m. Monday, August 5 will be the City Administrator review.
2. Discussion of putting a regular monthly workshop on the City calendar.
3. There was an error in previous discussions, a CCTV social media month trial is not free, there will be a cost if we want to move ahead. This will be put on the agenda for next meeting.

City Attorney Reports

No report. He thanked the City for the opportunity to serve 11 years as City Attorney, it's been a pleasure and a challenge.

Miscellaneous

Next Natural Resource Commission Meeting is Thursday, July 18, 2019 @ 7:00 pm
 Next Planning Commission Meeting is Thursday, July 25, 2019, @ 7:00 pm
 Next Regularly Scheduled Council Meeting is Thursday, August 8, 2019 @ 7:00 pm

Adjournment

On motion duly made by Councilmember Ross, seconded by Councilmember Ries on and carried unanimously, the meeting was adjourned at 9:35 p.m.

Attest:

Respectfully Submitted

City Administrator Mike Robertson

Debbie Breen
Recording Secretary