

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

**July 12, 2012**

The Council Meeting was called to order by Acting Mayor Tim Dunleavy at 7: 08 p.m. at the Community Meeting Room, 100 Village Center Drive, Suite 150, City of North Oaks, Minnesota. Present were Council members Gregg Nelson, Marty Long, Bruce Ackerman, and Tim Dunleavy. Mayor John Schaaf was absent. Also present were City Administrator Melinda Coleman, City Attorney Dave Magnuson, Recording Secretary Linda Hanson, and Videographer Kevin Scattum

### **Pledge of Allegiance**

### **Approval of Agenda**

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

### **Citizen Comments**

None

### **Consent Agenda**

1. Minutes of the Regular Council Meeting of June 14<sup>th</sup> 2012 for approval
2. Planning Commission Minutes of May 31<sup>st</sup>, 2012 for approval
4. Licenses for Approval:
  - Mechanical Contractors:** Ferguson Enterprises, Inc.; Stern Heating & Cooling, Inc.
  - Plumbing & Heating:**
  - General Contractors:**
  - Arborists:**
  - Sewer/Water Installation**
5. Claims for Approval: Checks # 10084-10112

Council member Long moved to accept the Consent Agenda. The motion was seconded by Council member Nelson and passed unanimously.

### **Petitions, Requests & Communications**

#### **1. Updates from Coralie Wilson, Executive Director of North Suburban Cable Commission**

Ms. Wilson gave an overview of the Franchise Renewal Process for cable service. It is the cable company's responsibility to notify the City of their intent to renew their contract which expires in 2013. The North Suburban Cable Commission follows a formal process to do this. Two consultants were hired: one did a technical audit to determine the technical condition of the cable system and the other did a needs ascertainment study to determine the future needs of the City.

The results of these studies can be found in the North Suburban Cable Commission Office or on their website.

The technical audit found over 3,000 code violations. A letter was sent to Comcast to correct these violations within 45 days. The Commission expects Comcast to watch this more closely in the future.

At this time, capacity is a concern as the system is close to maximum capacity. It is important that the system can meet the needs of the City for the next 10 to 15 years.

The needs ascertainment study was quite intensive. It included an online survey, telephone survey, and public meetings. Overall, residents seemed satisfied with Comcast. One concern that came up was the frustration with the phone system when problems occur and another concern was the lack of control over rates. The Commission is only able to regulate rates for the lowest tier of service which covers the basic channels.

In addition, there is a need for high definition transmission and since most viewers get information on viewing on the screen guide, it would be helpful if more local information could appear on this guide. For video on demand new equipment will be needed.

The Commission also completed a franchise fee audit and worked on an agreement to make the cost and payments to the cities more apparent.

Overall, CTV is very busy. They are proud of the Youth Media Program which has two half hour programs which are very well done. A new program called Young Lenses features young women ages 13-17 in media. They are also a proud recipient of the 2012 Bronze Telly Award as well as four ACM Hometown Awards.

They are currently working on strategic planning and at the present time the State Legislature is quiet. They are watching a bill in California to deregulate telecommunication services as this could eliminate any oversight of telephone and internet companies. They also are watching the FCC regarding the local zoning authority to make sure that communities have a say as to where the towers will be located in the future. A long term plan for regulatory reform is needed with protection for local governments.

Council Member Long asked for clarity around finances. The Commission represents 10 cities and North Oaks receives about \$60,000 a year out of the \$1,000,000 plus budget. The Commission stated that the City benefits because of the aggregate financial capacity and staffing.

Council Member Nelson asked about the expertise hired. Ms. Wilson explained that they have legal counsel as well as the consultants hired for the above studies.

## **Unfinished Business**

None

## **New Business**

### **1. CUP 12-07, Teresa Amsberry, 3 Raccoon Road, Request to Exceed Height Limitation and Garage Size**

City Administrator Coleman explained that the applicant was requesting a Conditional Use Permit to allow construction of a new home with a building height greater than 35 feet at the sides and rear of the home and a total garage area of 2,225 square feet. The staff reviewed the application and noted that the current ISTS system can be used and there is an additional area for a future system. The height in the front of the house will not exceed the 35 feet requirement nor will any part of the home exceed 45 feet. The plan meets the criteria for additional feet allowed for the setback due to the height requested. The Floor Area Ratio is within the current code in regards to the garage request and will not exceed 3,000 square feet.

The Planning Commission reviewed the request and unanimously agreed to recommend approval of this request.

Council Member Ackerman moved to approve CUP 12-07, 3 Raccoon Road with the following conditions:

1. Structure to be located per the survey dated October 31, 2011, prepared by Kurth Surveying, Inc., and constructed per the elevations shown on sheets 1 through 5 of the plans dated May 2, 2012, prepared by Alexander Design Group, Inc..
2. The use restrictions be consistent with Statute 151.050.

Council Member Long seconded the motion and it passed unanimously.

## **Council Member Reports**

1. **Bruce Ackerman**  
**NOHOA**  
No meeting

2. **Marty Long**  
**NRC**  
Council Member Ackerman attended the meeting for Council Member Long. This portion of the meeting was televised. The meeting focused on deer issues. A presentation on Chronic Wasting Disease was given and the meeting also focused on the Red Deer Herd on Hill Farm. Michelle Carlson, a wildlife health specialist, Brian Lueth from the DNR and Paul Anderson a veterinarian with the MN Department of Animal Health also attended this

meeting. There is a concern about transmission between the Red Deer Herd and the wild deer in North Oaks. The Red Deer are now quarantined and cannot be sold or transferred. Fifty animals were slaughtered and checked and no disease was found. About 400 remain in the herd. A discussion of how to prevent further transmission and also the possibility of using a double fence to keep deer apart took place. Samples will be taken of all deer taken from North Oaks.

Former Mayor Tom Watson expressed his concern that the City Council be more vigilant in going after people who interfere with the deer program. Incidents in the past included residents that have tried to interfere with the people who set the traps.

The committee is working on an ordinance in regards to feeding the deer which will be finalized at their August meeting and the draft ordinance will be presented to the City Council in August. They also would like direction from the Council on how to expand the scope of the proposed ordinances that they are working on.

#### **VLAWMO**

Council Member Long attended the June Board Meeting and after a long discussion, the Board decided there would be no increase in the budget. This is a well maintained group.

### **3. Gregg Nelson**

#### **Pleasant Lake Oxygenation Committee**

Council Member Nelson attended the Committee meeting. At this meeting committee members discussed the need for outside counsel and also the need to meet with SEH to fully understand this complex issue. Outside counsel has been retained.

### **4. Tim Dunleavy**

#### **Finance Committee**

The finance committee continues to meet to discuss the 2013 Budget.

#### **Lake Johanna Fire Board**

The City will experience an increase in expenses for the fire department in 2013.

### **Mayor John Schaaf**

No report due to his absence.

## **Administrator Reports**

### **1. 2012 Budget vs. Actual Expenditures**

The City has received the first half of the tax settlement and funds from the recycling assessment. The expenses are about where the City should be at this time of year. The City has been very engaged in legal issues so the prosecution portion of the Budget is slightly up. The Lake Johanna Fire Department is paid for the year and the Fire Equipment Fund is on track.

The City does have some reimbursements for planning and engineering coming back from North Oaks Company for Rapp Farm.

### **2. Ramsey County 2012-2016 Transportation Improvement Plan**

Ms. Coleman presented the Transportation Improvement Plan from Ramsey County. This document shows the County's plan for new improvements through 2016. North Oaks is not affected by this plan, but will more than likely be included in the future plans.

### **3. I-35E Corridor Study Update**

This report explained the finalized observations and plans and points out where the City has deficiencies. One area of concern is the bottle neck that occurs on 35E between County Roads E and 96. The report recommends an expansion to a six lane freeway, but the Metropolitan Council does not support this expansion. The report suggests that a bridge replacement may be needed in this area, so it will be important for the City to be proactive in requesting funds for this project.

Another area of concern is the interchange at 35E and County Road J. Over 11,000 cars use this interchange daily and it is projected to go up to 20,000 by 2030. Turn lanes and lights may be needed in this area to handle the increase in traffic.

Council Member Ackerman expressed some concern about the lack of support for improvements from the Met Council. Ms. Coleman explained that some of the improvements may not be as durable as liked at this time as changes in the area may be made soon.

### **4. Update on Second Attorney Opinion**

Ms. Coleman, Council Members Nelson and Ackerman met to create a list of attorney names for consideration to obtain a second opinion regarding the St. Paul Regional Service. Their first selection was not able to assist the City due to a conflict of interest. Peter Beck from Gray, Plant and Mooty was recommended. Ms. Coleman has worked with Mr. Beck in the past and found him to be easy to work with. Mr. Ackerman and Ms. Coleman met with him over the phone and then Mr. Ackerman brought documents to him and met with him at that time. Negotiations were completed and Mr. Beck agreed

to a \$250 an hour fee with a cap of 30 hours. If additional hours are needed, the Council will have to agree to increase the amount.

Council Member Ackerman stated that he believes this is a reasonable cost and Mr. Beck agreed that this is a complex issue and should be looked at carefully. He is a real estate and land attorney. He understands that the City would like his opinion as quickly as possible.

At the Pleasant Lake Oxygenation Meeting on Monday the 16<sup>th</sup> at 7:00 PM David Schuller from the Water Authority will attend and explain why the site is being considered. Mr. Ackerman agreed to write down the important facts from this meeting.

**5. Budget Adjustments: Consulting Services for Engineering and Legal Reviews Associated to Pleasant Lake Oxygenation Project and Possible Administrative Costs Associated with Council Minutes**

City Administrator Coleman stated that there will be additional costs that are not part of the current Budget. One cost will be for SEH for consulting on the Oxygenation Project.

The other will be for an additional cost to complete the minutes from the Council meetings if the Council wishes to have these in such detail. Ms. Coleman explained that a two hour meeting would usually take 2 to 10 hours to complete. Because of the greater detail, the minutes are taking 9 to 10 hours with the last meeting taking considerably more time because of the complexity. With the upcoming projects, Ms. Coleman expects that the meetings will get more complex and the minutes will take more time. Council Member Long is in favor of spending less time on the minutes since the meetings are videotaped. Council Member Dunleavy stated that he believes the minutes are more than are needed and that the Council should re-visit this practice. Council Member Ackerman stated that he would like to see the detail and that it is worth the extra money as it is only about \$150 extra. He would agree to talk to Administrative Assistant Linda Hanson about what he would like to see in the minutes. Ms. Coleman explained that in other communities they do not do the minutes in this detail. Putting the meetings online has a cost and they are available if someone wants more details. The Council needs to decide what should be in the minutes, so the issue will need further discussion.

**6. Administrative Variance #12-08, 50 Nord Circle Road, New Septic to Encroach 10 feet into 30 foot road easement**

This administrative variance was approved on June 14, 2012. The system is already in place and the code requires the Council to be informed.

**7. 2013 Budget Review Team Schedule**

The Finance Committee is working on the 2013 Budget. Public Safety is the largest part of the Budget and the City now has preliminary numbers that costs from the Ramsey County Sheriff Department, Lake Johanna Fire Department and 911 Dispatch all will be increasing in 2013. This will amount to around \$34,000.

There may also be an increase in the contract with Roseville IT.

The Finance Committee will meet twice in August. Ms. Coleman expects it will be a challenging Budget year.

### **8. The Annual Deer Report**

In the aerial count 236 deer and 4 coyotes were counted. Forty one deer and forty one fetuses were removed which is lower than usual. The NRC spent time with former Mayor Watson to discuss enforcement and proper deer densities. NRC will be recommending the correct amount of deer for North Oaks and also will come to the Council with a deer feeding ordinance after holding a public meeting. An article about this ordinance will be in the North Oaks News in August. A bow hunt is being considered on the Hill property because of the concern for Chronic Wasting Disease. Deer can then be tested by the University of MN and the Federal Wildlife Department in Aimes, Iowa.

A fishing survey is also being conducted to check the fish in Pleasant Lake to compare with the fish in the Mississippi to see if they match.

### **City Attorney Reports**

#### **1. Pool Fence Violation Enforcement**

The City prevailed in the District Court. The question is now what to do to enforce the law against the noncomplying residents. It is suggested that the time for appeal run out before the issuance of citations and assessment of costs. City Attorney Magnuson suggests the Council look at what should be done at the September meeting.

#### **2. Update on O'Brien Litigation**

In regards to the litigation, Mr. O'Brien has requested a trial. It is scheduled for July 18<sup>th</sup>, 2012. The City would like to settle without going to trial. The estimated cost of going to trial is not known. The Council agreed to discuss the State vs. Mr. O'Brien in a closed session following the Council meeting.

### **Miscellaneous**

The Pleasant Lake Oxygenation meeting is scheduled for July 16<sup>th</sup>, 2012 at 7:00PM.

Next Regularly Scheduled Council Meeting – Thursday, August 9, 2012 @ 7:00 pm in the Community Meeting Room

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

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

The Night to Unite is Tuesday, August 7, 2012.

**Adjournment**

On motion duly made by Council Member Long, seconded by Council Member Ackerman and carried unanimously, the meeting was adjourned at 8:19 pm.

Attest:

Respectfully submitted,

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Mayor John Schaaf

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Linda M. Hanson  
Recording Secretary