

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
FEBRUARY 14, 2017**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on February 14, 2017.

Mayor Bob Nuffort called the meeting to order at 5:30 p.m.

PRESENT: were Mayor Nuffort, Councilpersons - James Cuff, Frank Pazlar, Edwin McCarthy and Scott St. Martin; also present were City Planner Nate Sparks and Treasurer Mike McGill.

ABSENT: Joanne Frane-City Clerk and Richard Copeland-City Attorney

ALSO PRESENT: See attached sign in sheet.

PUBLIC COMMENT: Mayor Nuffort asked for public comment. There were no persons present for public comment.

APPROVAL OF AGENDA: Mayor Nuffort asked for approval of the Agenda. Motion by Cuff to approve the Agenda, second by McCarthy. Motion carried 5-0.

APPROVAL OF MINUTES: Mayor Nuffort asked for approval of the Minutes of the January 10th Council Meeting. Motion by Cuff to approve the minutes, second by McCarthy. Motion carried 5-0.

SHERIFF'S REPORT: Sergeant Brad Marquardt and two Officers representing the Washington County's Sheriff Office attended and reported that there has not been much call volume and body cameras for the Officers have arrived. Sgt. Marquardt asked who he should contact in case of a major event. Mayor Nuffort advised to contact him.

98 DELLWOOD AVE VARIANCE REQUEST (CONTINUED): Mayor Nuffort asked Pazlar for an update. Pazlar stated that the matter had been tabled by the Council previously to allow for the applicant to adjust their plan related to height and size of the garage. Pazlar stated that the applicant is proposing some drainage control features that may need to be placed in an easement. Mr. Matt Burton of Southview Design representing the applicants stated that there is a dry stream bed behind the proposed garage and a perforated pipe to carry water through the site. This is necessary to protect the foundation of the garage. City Planner Sparks stated that the building was revised to be 32.5' x 24' and 21 feet in height and remains proposed to be 8 feet from the property line.

Nuffort asked if the floor elevation of the garage could be lowered to assist in lowering the overall height. Burton said it cannot get lower due to the drainage.

Nuffort asked for a motion regarding the variance. After hearing none, Nuffort asked Sparks about the Council's options. Sparks stated the matter must be resolved at this meeting, as the review period does not continue past the next Council meeting.

McCarthy noted that at the October meeting, the motion to approve this variance failed 3-1, if no motion is made he asked if that would be the final action. Sparks stated that while the motion to approve failed, there was no motion for denying the variance afterwards which procedurally left the matter open at the Council. If no motion to approve is made, a motion to deny must be made and findings for either action should be stated.

Nuffort motioned to approve the variance with the height as presented on the revised plans, setback at eight feet, the applicant providing the drainage features as proposed on their plans, and an easement over the drainage features and areas. Seconded by Cuff. Nuffort asked for further discussion.

Pazlar stated that this was a flawed process but there appear to be practical difficulties present. He has heard from the neighboring property owner and concurs that this is somewhat of an extreme variance especially when the plan was for the building at 3 or 6 feet from the property line.

McCarthy stated he was recusing himself. He feels that this case is problematic. It is an extreme variance. This is a new building being placed and it should be meeting standards.

Pazlar stated that any resolution for approval should be very specific and ensure that all restrictions are complied with including dimensions, design, setbacks, and drainage requirements. He also stated that construction should be monitored and fees shall be paid.

Nuffort stated that all construction should match the plans reviewed by the Council. Pazlar wanted to ensure gutters were placed on the rear of the garage. Nuffort said the easement should contain the dry stream bed and the flow area going towards the wetland.

Motion carried 3 (Nuffort, Cuff, Pazlar) – 1 (St. Martin) with McCarthy recused.

SEVEN VINES WINERY INTERIM USE PERMIT UPDATE: Brad Cashman representing Seven Vines Winery presented a letter and redlined interim use permit with changes the winery is requesting. He said the State has been enforcing regulations on farm wineries. To serve food requires a commercial kitchen. The original thought was that the food service would be limited to small items and catering. Now they are seeking a commercial kitchen to allow for food preparation to serve guests at the winery.

St. Martin asked what changed at the state level and specifically what rules were changed. Cashman said that not much has changed but enforcement and that food preparation requires a commercial kitchen. Cuff asked if any food preparation requires a commercial kitchen. Cashman said that if it was truly a business making food then yes, it is required. St. Martin said it was never intended to serve food here, it was a winery.

Ms. Janee Katz from Seven Vines Winery stated that they are still intending to be a winery and that it's just good to be able to serve food. St. Martin pointed out that the language in the IUP was proposed by the winery and now it is proposed to be changed. Cashman said that the change is intended to allow for the winery to prepare food on site rather than catering otherwise it is not changing much. St. Martin asked if this would change the licensing and require Department of Health approval. Cashman said yes.

McCarthy said at first it was a winery then an event center and now a restaurant. Originally, it was to be caterers on occasion or just wine and cheese. Will this be a functioning restaurant with a liquor license? Cashman said it is not supposed to be. It's a winery to sell wine as the underlying function. It's not meant to be a restaurant.

Pazlar asked how many people can be in the building at one time. Katz said 234 by Fire Code. Pazlar asked why some documents reference 300 people. Katz said that includes outside events. Pazlar asked if this refers to tents or other temporary structures. Katz said it includes a party tent. St. Martin asked if

the 234 allowed includes the other level of the building. Katz said the other level allows about 30 people.

Pazlar noted they are seeking the term of the interim use permit to be changed to five years from the date of amendment not issuance to start in 2017. Cashman said they are here now and the additional time is warranted. Pazlar said the five year period served a purpose. Cashman said it is to review the permit, which is happening at this time. St. Martin said it was to review the operation as it is working then evaluate.

St. Martin said he has concerns about the fire code and sprinkling requirements. He would have thought of the permit differently at the original review had there been mention of a commercial kitchen. There may be more staff and more people now. More fryers and more smell is possible. It would appear to have a greater impact.

Nuffort said it was initially a winery and vineyard with limited retail and now opens the chance to provide restaurant services. This boundary must be properly defined. Katz said they are intending to be a winery not a restaurant. St. Martin said they may have to roll back hours to close at 10 pm on weekends. The intent should not be to have a more intense use.

Cashman said that now instead of catering they would have food prepared there. The same people would be there either way the only difference would be where the food is prepared.

Cuff stated that it appears that with these amendments he could go out to the winery and buy a bottle of wine and be able to visit the restaurant anytime. Katz said yes but most wineries have food and they will not be selling beer.

St. Martin asked if they would seek a liquor license some day. Cashman said only through catering licenses for events. St. Martin noted that in the original IUP it required 30 day notice to the City before any event that serves liquor and now that is proposed for removal. Cashman said the plan is evolving.

Nuffort said the Council can consider the proposed modifications or potential replacement of the IUP after the plan is reviewed by the Planning Commission. Cuff said he anticipates that the proposed changes would require a revised septic plan.

Pazlar asked if interim use permits are planning items. Sparks said yes they would require review by the Planning Commission. St. Martin said there are some open questions on this and it would be prudent to have the City Planner review this matter with the Planning Commission.

Nuffort asked if the Council could place conditions on the operation within the IUP. Sparks said yes. Nuffort said that any amendments to the IUP should be made with clarity on the operation. St. Martin said he wanted to know more about the catering rules and what other wineries are doing. Cuff said he preferred keeping the original 5 year renewal requirement. Pazlar said he would work with the City Attorney and City Planner to bring back additional information at the next meeting.

KEJ ROAD CONTRACT 2017: Nuffort said it is time to renew the road contract with KEJ Enterprises. Ken Johnson from KEJ Enterprises said there weren't many changes. Cuff said that the increase was about 2.5%. Nuffort asked if any new issues have arisen. Johnson said just that some of the bituminous overlay on several roads continues to come apart. Pazlar asked if that was from truck traffic on Apple Orchard Road making ruts. Johnson said shoulders weren't prepared properly when it was built. Over

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the years leaves and dirt get deposited on the side of the road causing settling. They have been doing shoulder work to improve this condition. Motion by Cuff to approve the proposed agreement with KEJ. Second by Pazlar. Motion carried 5-0.

Johnson said road weight restrictions may be coming on next Friday.

RONALD McDONALD HOUSE TEMPORARY GAMBLING PERMIT: Nuffort said there will be a raffle on June 5th at the White Bear Yacht Club. Motion by St. Martin to approve the temporary gambling permit with no waiting period. Second by Cuff. Motion carried 5-0.

APPROVAL OF CLAIMS FOR JANUARY 2017: Cuff asked how the cost and usage of salt compared to previous years. Johnson said there was a lot of ice this year and they have been using straight salt on asphalt. Nuffort said that it appears cleaner without sand. Motion by St. Martin to approve the payments of claims for January 2017. Second by McCarthy. Motion carried 5-0.

REPORTS OF COMMISSIONERS:

St. Martin noted the report from the Sheriff earlier in the meeting.

Cuff noted the removal of ash trees in St. Paul. There are not as many ash trees in Dellwood but the emerald ash borer could impact certain areas quite a bit.

Pazlar reported no permits and no violations.

Treasurer Mike McGill reported a balance of \$436,900 after paying the January claims.

Nuffort noted that it is early in the Minnesota legislative session, but that there could be funding for road improvements in the small cities assistance account.

He mentioned that he attended a meeting for the Lake Links Bicycle Trail held by a citizen's group. The meeting discussed the trail route and signage around White Bear Lake. Pazlar asked if the City had to approve signage if proposed. Nuffort said yes, but MnDOT has previously made road changes without City consultation. Nuffort said the City will have further discussions.

Motion by Pazlar to close the meeting to an executive session to discuss a personnel matter. Second by St. Martin. Motion carried 5-0. Motion convened to executive session at 7:30 pm.

By order of Mayor Nuffort, the regular meeting was reconvened at 8:15 pm.

There being no further business, the meeting was adjourned at 8:15 pm.

Respectfully submitted,

Nate Sparks
Acting Secretary