

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
JUNE 13, 2017**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on June 13, 2017, at the City Hall Offices located at 111 Wildwood Road, Willernie, MN.

PRESENT: Mayor Nuffort, Councilpersons - Frank Pazlar, Edwin McCarthy and Scott St. Martin; also present were City Clerk Joanne Frane, City Attorney Richard Copeland, Treasurer Mike McGill and City Planner Nate Sparks, and also the persons shown on the Sign-In Sheet attached to these Minutes.

ABSENT: James Cuff

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

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

Mayor Nuffort asked for approval of the Agenda. Upon Motion by McCarthy, second by Pazlar, the Agenda for the meeting was unanimously approved.

The Minutes of the May 9, 2017 Council meeting were reviewed. Upon Motion by Pazlar, second by McCarthy, the Minutes of the May 9, 2017 Council meeting were approved unanimously, without changes.

RE-ZONING OF THE SEVEN VINES WINERY PROPERTY: Nate Sparks discussed the items set forth in his Memorandum of June 9, 2017. A copy of the Memo is on file. This item is to complete the re-zoning of the Winery Property lying northerly of Highway 96. The easterly half of the property was re-zoned earlier from Farm Estate Agricultural to Winery District. The Winery Building is located in part of the Westerly half of the property. The Council had earlier approved an Amended Interim Use Permit on condition that the Westerly half also be re-zoned to Winery District. The Applicant is in agreement with this re-zoning. The conditions imposed upon the Easterly half under the I.U.P. are to apply equally to the Westerly half, including those related to noise levels, exterior lighting and locations of structures according to the Site Plan on file with the City. The Planning Commission held a public hearing and recommended approval of the request.

Upon Motion by Pazlar, second by McCarthy, the Council resolved unanimously to approve the re-zoning of the entire Winery property lying northerly of Highway 96, from Farm Estate/Agricultural to Winery District, with the conditions under the I.U.P. amended to be applicable to the entire parcel, both the Easterly and Westerly halves. The Council unanimously approved the proposed Ordinance to Amend the Zoning Ordinance to include the Westerly one-half of the Seven Vines Winery property lying Northerly of Highway 96 from Farm Estate/Agricultural to Winery District. (copy attached hereto).

APPLICATION FOR MINOR SUBDIVISION - CONTINUATION- 34 DELLWOOD AVENUE: Nate Sparks discussed his Memorandum dated June 9, 2017. A copy is on file. The Planning Commission held a public hearing on this matter and recommended approval of the

minor subdivision with certain conditions including the following: subject to approval by the City Attorney of the required access easement agreements, and his approval of the proposed Registered Land Survey or Plat to determine that it matches the lot split survey approved; a report to the City indicating that each resulting lot will accommodate a satisfactory septic system together with an alternate site as shown on the site plan. The lots upon subdivision will each have an area of over one acre, with yard widths of at least 120 feet, as required.

A condition of the minor subdivision is that each lot resulting from the subdivision of the existing parcel have good legal access to Highway 244 (Dellwood Avenue). The existing parcel has access to Highway 244 by way of a shared driveway easement which also provides access to the adjacent properties now owned by Chad Sauer and Greg McNeely. Mr. Copeland stated his opinion that the Applicant Barbara Erickson could not unilaterally grant to an additional party easement rights over the same driveway easement without the consent of the other parties to the Easement Agreement. Both Mr. Sauer and Mr. McNeely had filed written objections to that effect. Their objections had not been considered by the Planning Commission because the Applicant had stated and had filed a Site Plan, that a new driveway access would be created for the two newly created lots and that the existing shared easement would no longer be used by the new lots at 34 Dellwood Avenue.

The City was advised by MNDOT that a new access point on Highway 244 would not be approved, which means that the two lots proposed under the minor subdivision would have to rely on the existing shared driveway easement. Mr. Copeland stated that the City could not take action which would affect the easement rights of Mr. Sauer and Mr. McNeely without giving them the opportunity to have their objections heard by the City Council. He recommended that this matter be tabled to the July Council meeting for the purpose of allowing the Applicant to arrive at an agreement with Sauer and McNeely for the use of the existing easement by an additional party.

On Motion by Pazlar, second by McCarthy, this matter was continued for further consideration at the July 11, 2017 Council meeting. Doug Johnson, the Applicant's representative agreed to the Motion.

APPLICATION OF DELLWOOD COUNTRY CLUB FOR USE PERMIT

AMENDMENT: Dellwood Country Club submitted an Application for an Amendment to its Use Permit to allow for a concert to be held on its property on July 22, 2017. Nate Sparks discussed his Planning Memo dated June 9, 2017 (on file). The Club has requested approval of a proposed outdoor concert to be held on the Club's practice/driving range lying northerly of Highway 96. Anticipated attendance is about 3500 plus another 400 Club members, plus staff workers and security personnel.

The Planning Commission held a public hearing on June 6, 2017 and recommended approval of the request with certain conditions to be imposed which are set forth in the Nate Spark's Planning Memo dated June 2, 2017 (on file).

The recommendation of the Planning Commission has determined that the proposed use will not:

- 1) Unreasonably increase congestions in a public street;
- 2) Increase the danger of fire or the spread of fire;
- 3) Endanger the public health, safety or general welfare;

- 4) Unreasonably diminish or impair established property values within the neighborhood; or
- 5) In any way be contrary to the intent of the Ordinances and the Comprehensive Plan of the City.

Pazlar asked about traffic concerns. He noted that Doug Anshutz, Washington County Sheriff's Office, said some attendees will not want to shuttle from Century College, will try to find parking on nearby streets and walk to the concert venue. This can pose security and safety issues for residents living nearby. Mr. McIntyre stated that the security people he is working with have vast experience in events of this type and are well trained.

Pazlar stated he feels it would be prudent to have manned road blocks or barricades placed on selected streets, such as Tamarisk, Augusta Lane, Eldorado Drive, Meadow Lane, etc., to prevent people from trying to park close to the event site. Mr. McIntyre stated that his security force can arrange to have barricades or other types of road block which are manned at all times.

Pazlar noted that the City may be setting precedence for similar types of events. He is concerned that others may wish to do so and that the City should establish a maximum number of allowable events. The Club has stated and agreed that it will not seek approval for such an event more often than once per year, if at all. They have to wait and see if this event is a success, and may apply for a similar event next year.

McIntyre stated that people entering the event will be searched by the security people to ensure that liquor, drugs, etc, are not brought on to the property.

St. Martin stated that the City will have the benefit of experience in dealing with other such requests in the future.

Pazlar stated that he believes the City has addressed all of the issues involved in either approving or denying the requested action. "No Parking" signs will be placed on City streets and if necessary on nearby highways, as well as manned road blocks/barricades on nearby streets to control traffic to only residents. He moved to approve the application for a One-day Amendment to the Club's I.U.P. to allow for a concert event to be held on July 22, 2017, between the hours of 3:00 p.m. to 10:00 p.m. with music and entertainment to stop at 9:00 p.m. and all attendees who were shuttled in to be removed and returned to Century College parking area by 10:00 p.m., with all of the conditions imposed by the Resolution of the Planning Commission to be followed. St. Martin seconded the Motion. Copeland stated that the Council has considered an Amendment to the Club's existing Use Permit is necessary to allow for this special One-Day Event which will exceed the limitation of a maximum 300 people excluding staff personnel. Entrance to this event, except for Club members and invites, is restricted to those who obtain wrist bracelets at Century College where parking will take place. Those having bracelets will be bus shuttled from Century College to the parking area at Dellwood Country Club. No Parking Signs will be placed on City Streets and if necessary on nearby highways. Enforcement of parking restrictions will be done by way of off-duty Sheriff's Deputies and security forces hired by the Applicant, as well as Washington County Deputies in the performance of their normal duties.

The City has required an Escrow Fund (\$5,000) from the Applicant to compensate for any damage done to City or Residential property, which can be refunded to the Applicant in whole or in part.

The Club will provide proof of liability insurance with the City of Dellwood named as an additional insured for this particular event, with limits of \$5,000,000. Copeland stated that the

City is well protected against loss through its own liability insurance with LMCIT, and statutory liability limits imposed by law, and the insurance provided by Dellwood Country Club.

Shawn McIntyre, Dennis Countryman and Tim Lawin were present to speak on behalf of Dellwood Country Club and to address any questions or concerns of the Council. Mr. Lawin described this event as a small one-day event which is intended to be a wholesome first class family event. He estimated that 20 to 25 percent of the attendees will be residents of the City. It will be in the nature of country music, not rock or heavy metal. He feels that it will be something which will enhance the City of Dellwood.

McCarthy stated that he feels the Club is doing a good job with organizing the event but the anticipated number of people present is just too big for him. He feels this event is not a good idea for the City and something never expected by the residents in the area. He is not ready to give his approval.

St. Martin stated that the City at this point does not have sufficient experience with an event of this type and appears to be worth a try. The Apple Orchard on a fall Sunday may have as many people present as may attend the concert. He is in favor of the proposals with conditions and feels that it has been well organized at this point.

Pazlar stated that he had received a telephone call from Council person Jim Cuff. Cuff had told Pazlar that he was favorably disposed, that it would be a "test case" for an event of this type, and that he had some concerns about traffic and parking issues, and liability exposure to the City.

Pazlar asked Mr. Copeland if the City of Dellwood is liable for any personal accidents/injuries and/or property damage to residents and/or attendees by virtue of approving this Application? The City Attorney said he did not feel the City would be liable. It was requested that a written legal opinion be included as a part of the official City records for this Application.

Pazlar, Nuffort and St. Martin voted Aye. McCarthy voted no.

Mr. Sparks noted that there is an additional Resolution to be considered with regard to the parking issues. On Motion by Pazlar, second by St. Martin, the Council voted unanimously to approve the Resolution prepared by Mr. Sparks regarding restricted parking at locations set forth in the Resolution (attached to these minutes).

TEMPORARY GAMBLING PERMIT – AMERICAN LEGION POST 272: A Temporary Gambling Permit Application was submitted by the American Legion Post 272 for an event to be held at Dellwood Country club on August 7, 2017. The Council determined that the Application was complete and in order. Upon Motion by Pazlar, second by St. Martin, the Application was approved unanimously.

LAND USE AGREEMENT FORM/ESCROW: Pazlar presented a Land Use Application Escrow Agreement Form. The amount of deposit is to be \$1000 unless the City Clerk determines that a higher amount is required. The form is to be amended to state the fact that the

Clerk has the authority to require a higher escrow amount at any time while the work is still in progress. Pazlar moved for approval and St. Martin seconded. The Council resolved unanimously to approve the Escrow Agreement Form with the change noted above.

CLAIMS AND RECEIPTS LIST FOR MAY 2017: The Claims and Receipts List for the month of May 2017 was reviewed and discussed. Upon Motion by St. Martin, second by McCarthy, the Claims and Receipts List for May 2017 was unanimously approved as submitted.

REPORTS OF COMMISSIONERS:

St. Martin reported that he spoke with the Chief of the White Bear Lake Fire Department and that no change is needed to the north termination point of Echo Street. The Clerk is to send a note to Mr. Ron Peltier advising him of this decision. Mr. St. Martin further recommended that the City adopt a policy of requiring annual inspections by the Fire Department of all businesses within the City including two golf clubs, the Winery and the Apple Orchard. He also recommended that the City require that the Fire Department conduct a “walk thru” prior to all special events for which a Permit has been issued for which is allowed by existing Use Permits.

Pazlar reported 8 new permits including 2 for HVAC and one for plumbing. He also suggested that Jack Kramer be consulted with respect to whatever action should be taken regarding the Smith property on Meadow Lane. Mr. Copeland will contact Mr. Kramer in this regard.

Mr. Kuffner appealed his property taxes directly to the County (Tax Court). The City was charged by the County Assessor’s office for handling the appeal. Mr. Pazlar inquired as to whether these costs can be recovered by the City from the taxpayer. Mr. Copeland will check into this to determine if the City can do so.

Mike McGill reported a balance of \$344,853 in the bank after payment of May bills. He noted that the initial budget workshop is scheduled for 10:00 a.m. on July 17th.

Mayor Nuffort reported that Jim Cuff and Karl Brogren, the City Forester, have found no diseased trees in the City. There are many dead trees in the Pine Tree Hills area. Residents have been notified.

Meadow Ridge Roads have been patched.

The State has established protective elevation mark for White Bear Lake at 922 feet. If the level drops below that mark, certain mitigation actions will be required.

There being no further business, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator