

**MINUTES OF MEETING  
DELLWOOD CITY COUNCIL  
AUGUST 11, 2015**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on August 11, 2015.

Mayor Nuffort called the meeting to order at 5:32 p.m.

**PRESENT:** Mayor Nuffort, Councilpersons Pazlar, Cuff, McCarthy and St. Martin, City Clerk Joanne Frane, Treasurer Mike McGill, and City Attorney Richard Copeland.

**ALSO PRESENT:** Doug Galwas of 5 Apple Orchard Court.

**AGENDA:** Mayor Nuffort called for approval of the Agenda. Upon Motion by Cuff, second by St. Martin, the Agenda for this meeting was unanimously approved as submitted.

The Minutes of the July 14, 2015 Council meeting were reviewed and discussed. Upon Motion by Pazlar and second by St. Martin, the July 14, 2015 Council Meeting Minutes were unanimously approved.

**PUBLIC COMMENT:**

Mayor Nuffort asked if anyone were present for public comment. There was no one present for public comment.

**FIREWORKS ISSUE:**

Mr. Copeland updated the Council on the issue regarding an unpermitted fireworks display at the Todd Nicholson property on July 4, 2015. At the July Council meeting, Mr. Copeland was instructed to try to work out a resolution with Nicholson's attorney, Paul Rogosheske. If unsuccessful, then a formal complaint should be filed. Mr. Copeland reported that he had come to an agreement with Mr. Rogosheske which provided for payment of an administrative fine of \$400, and that contact would be made with the Complainant by Mr. Rogosheske or by Mr. Nicholson. In the meantime, a new issue arose in that Mrs. Nicholson had posted an item on her Facebook stating that the City attorney had been abusive to her daughter. Mr. Copeland then wrote to Mr. Rogosheske, copy of letter dated August 6, 2015, attached hereto.

St. Martin stated that he believes the City should proceed with a formal prosecution for violation of the fireworks Ordinance or Statute. Mr. Copeland stated he is willing to do that if necessary, but that he would take his directions from the Council. He stated that a fine of \$400, together with documents signed by the Nicholson's acknowledging that a violation of the laws prohibiting the display of fireworks occurred at their property on July 4, 2015, may suffice to settle the matter and prevent any similar incidents in the future. Mr. Copeland stated that he did not want the Nicholsons to feel that they were forced into doing something with which they did not agree. They have the right to have the matter heard by a Judge in District Court.

The Council agreed that Mr. Copeland should pursue that type of resolution with Mr. Rogosheske, and failing that, he should prepare and file a formal complaint with the District Court. Mr. Copeland will report at the September Council meeting.

A discussion ensued regarding the lead time which the City requires for application for a Permit to conduct a fireworks display. The Statute states 15 days prior to the date of the display. Mayor Nuffort feels that the City needs the Application to be filed no later than 45 days prior in order to give the City adequate time to investigate, consider, and process the Application as well as to notify residents in the area and allow them to make objections.

Comments were made to the effect that fireworks displays should not be permitted except on the 4<sup>th</sup> of July. Pazlar stated that a policy should be adopted concerning what does the City want or need? What are the conditions that have to be met? Mr. Copeland stated that the Statute as presently written leaves the City little control over the conditions which may be imposed upon a fireworks display. The City Ordinance can be more restrictive but not less restrictive than the State Statute. Copeland will prepare a proposed Application Form to be used when someone wants to obtain a Permit to discharge fireworks. Basically, this form will ask the Applicant to confirm the following information:

- 1) The name of the organization which will conduct the display.
- 2) The name of the Operator who will be in charge of conducting the display.
- 3) That the Operator is certified by the State Fire Marshall.
- 4) That the display will not create a danger to any person or property, and describing the type of fireworks to be displayed.
- 5) The location of the proposed display.
- 6) The names and addresses of the owners of properties within 350 feet of the display location.

Along with the Application, the City will give the Applicant a copy of the State Statute and City Ordinance governing fireworks displays. The Application must be submitted no later than May 31<sup>st</sup>. Fireworks cannot be displayed in the City at any time other than July 4<sup>th</sup>. Notice will be given to residents so that they may have the opportunity to make objections to the Fire Chief during his investigation. Copeland will determine that the 45-day advance Permit Application and the restriction of displays to July 4<sup>th</sup> only are with the City's authority.

He will report on this at the September Council Meeting.

**PROPOSED 2016 BUDGET:**

The proposed budget for year 2016 was reviewed and discussed. Pazlar noted that 9% of the budgeted expense goes into the reserve fund. McCarthy noted that the bond consultants, Ehlers Company, strongly recommend that the City's reserve fund be equal to one year's budget figure.

Mike McGill stated that the proposed budget looks good to him. St. Martin stated that he likes to see an adequate balance in the reserve account and McCarthy stated that he agrees.

Nuffort noted that the final review of the proposed budget will be made at the September Council meeting.

**LIABILITY INSURANCE WAIVER FORM:**

LMCIT submitted the annual tort liability waiver form for the City's consideration. In past years, the City has consistently resolved not to waive the statutory tort liability limits contained in Minnesota Statute Section 466.04.

Upon Motion by Cuff, second by Pazlar, the Council voted unanimously to not waive the statutory monetary tort limits set forth in M.S. 466.04 and instructed the Clerk to sign and return the appropriate form to LMCIT.

**EAST METRO WATER RESOURCE EDUCATION PROGRAM:**

The agreement with East Metro Water Resource Education Program and Washington County Conservation District pertaining to educating the citizens of Dellwood about water resources, stormwater management, groundwater management and conservation was reviewed and discussed. Upon Motion by St. Martin, second by Pazlar the Council resolved unanimously to approve the City's continued participation in this program for year 2016 at a cost of \$650.

**NOISE CONTROL ORDINANCE, SPECIAL PERMITS:**

Mr. Copeland presented a proposed Amendment to the Noise Ordinance to allow for a special variance from the strict requirements of the Noise Ordinance. The Amendment would allow the City Council to approve an exception to a private resident for use of sound instruments beyond 10:00 p.m. and until midnight, in connection with a private event to be held at the Applicant's residence. The Amendment would not apply to events held at non-residential properties. The Amendment would allow for only one such exception to a given property in one calendar year.

Mayor Nuffort stated that the application should be filed with the City Clerk not less than 45 days prior to the scheduled event date. Mr. Copeland noted that residents within 350 feet of the location of the event should be notified and given an opportunity to object by way of appearance at the Council meeting preceding the date of the event, at which time the request for an exception to the Ordinance will be considered by the Council.

Mr. Copeland will work on a proposed Amendment to be further considered at the September Council meeting.

**EASEMENT DORAL ROAD TO APPLE ORCHARD COURT:**

The City received a report and recommendations from the City Engineer, Focus Engineering. Cost estimates were given for a 12-foot wide gravel Class-5 trail and a 6-foot wide paved trail with 3-foot gravel shoulder on each side. Copy of the Focus report is attached hereto.

Doug Galwas stated that the preference of the residents in the area of the easement would be the 6-foot paved pathway with the 3-foot gravel shoulders. He stated that no cars have been seen on the easement since the "signs" have been installed. He stated that a 12-foot paved trail would encourage vehicular traffic.

Nuffort noted that a utility box, probably cable company equipment, may have to be moved. A discussion followed regarding funding for this improvement which the Engineer estimates could be up to \$30,000. Cuff noted that Small Cities Assistance Payments from the State would cover most, if not all, of the expense. He noted that the City is currently under the budget fixed for road maintenance. The Small Cities Payment in 2015 will be \$24,262, which leaves a shortfall of about \$4000; depending on the final contract bid figures. He presented a Motion to proceed with sending out bids with a proviso to Focus Engineering that the project is not to exceed \$28,000 and that the job is completed before winter sets in. McCarthy agreed and seconded the Motion. The Council voted unanimously to instruct Focus to prepare a proposal, not to exceed \$28,000 and to proceed with advertisement for bids.

**UPDATED LAND USE AND VARIANCE REQUEST FORM:**

Mr. Copeland presented a proposed revised form for use in request for Variances, CUP's, and other land use issues. Cuff noted that in the second paragraph on Page 2 there is a reference to "City Planner" which Dellwood does not have at this time. The Council decided to delete the words "or as approved by the City Planner." Upon Motion by St. Martin, second by Cuff, the Council unanimously resolved to approve the revised form with the change noted above.

**CLAIMS AND RECEIPTS LIST:**

Upon motion by Pazlar, second by St. Martin, the Receipts and Claims List for July 2015, was unanimously approved with no changes.

**REPORTS OF COMMISSIONERS:**

St. Martin reported 15 permits, all for roof repair except for two window replacement. McCarthy commented whether the City should impose time limitations as to the hours during which construction work may be carried out. Mr. Copeland noted that the current Ordinance, Section 134.05, contains limitations on construction work during certain times. He will review the Ordinance and have comments at the September Council meeting. Cuff noted that work on the culvert on Meadow Lane is complete. The City has sent out notice to residents of the crack sealing and seal coating to be done on certain City streets in August. Buckthorn eradication work will continue in October and November.

Pazlar commented about his investigation into the feasibility of the City hiring the services of a professional planner. The matter will be further considered at the next Council meeting.

Pazlar noted that 10 Tamarisk road is up for sale in an "as is" condition. Mr. Copeland stated that a sale of the property would include a compliance inspection of the septic system. The Buyer may elect to waive certain defects in the system but that the City Sewer Inspector, Brian Humpal, would have to make the call to require repair or replacement of a "failing" system. Mr. Copeland stated that he would send a letter to the listing agent reminding him of the requirement for a compliance inspection, but first he will check with Mr. Humpal to see what the most recent sewer inspection disclosed.

Mr. Pazlar commented on several items contained in the Sheriff's Monthly ICR Report.

Mayor Nuffort noted that the "No Parking" signs have been installed on Meadow Lane. He also reported that Focus Engineering does not provide City Planning Services. Pazlar noted that any arrangement with a professional Planner would be a per job basis and not under a long term basis.

McGill reported \$367,961 in the bank after payment of July claims. The City is in good shape financially.

There being no further business, the meeting was adjourned at 7:12 p.m.

Respectfully submitted,

Joanne Frane  
Dellwood City Clerk