

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
AUGUST 8, 2016**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on August 8, 2016. This meeting was held on Monday due to the Primary Election being held on Tuesday August 9th.

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

PRESENT: Mayor Nuffort, Councilpersons Frank Pazlar, Edwin McCarthy, Scott St. Martin; City Clerk Joanne Frane, City Attorney Richard Copeland, Treasurer Mike McGill

ABSENT: James Cuff

ALSO PRESENT: Dan Raboin-City Assessor and Brian Allen-All Energy Solar

PUBLIC COMMENT: Brian Allen of All Energy Solar was present to speak to the Council about the Solar Energy Systems Ordinance which was enacted by the Council at its July 12, 2016 meeting. He asked that the City reconsider that part of the Ordinance which does not allow for ground mounted systems. His Company has a client residing on Apple Orchard Court who wishes to construct a ground mounted solar energy system on her property. He presented material including site drawings and aerial photos which described the proposed system and its location. He noted that the application for the system was filed with the City on or about July 1st, the City received the payment about July 28th which then was inspected and approved by the City Inspector Jack Kramer. It was then discovered that the City had passed its Solar Energy Ordinance on July 12th. The Ordinance as originally drafted and considered at the June Council meeting provided for both roof and ground mounted systems. Further discussion took place and the matter was tabled because the Council wanted to consider prohibiting ground mounted systems. The revised draft of the Ordinance was considered and passed at the July 12th Council meeting and published in the White Bear Press on July 27, 2016.

It appears that Mr. Kramer gave his approval on or about July 2nd and prior to the enactment of the Ordinance on July 12th. It did not appear that the applicant suffered any detriment in reliance upon Mr. Kramer's preliminary approval.

Mayor Nuffort stated that the Council had concerns about safety issues and neighbors sight-lines. McCarthy stated that allowance of roof-mounted systems only is an effective way to limit the number and size of solar energy systems and to prevent a proliferation of systems throughout the City. Mr. Allen stated that the law in Minnesota favors homeowners having a right to access solar energy. Mr. St. Martin noted that Dellwood is a fully developed community with mature tree growth and would like to remain that way. Removal of trees to accommodate solar energy access does not seem to be acceptable. He pointed out that there are various procedures in place which might be used in any given situation. Mr. Allen stated that the Ordinance eliminates solar energy systems for homeowners who do not have suitable roof area or proper orientation to accommodate an effective roof-mounted system. Mr. Pazlar stated there are properties in Dellwood which would not accommodate a ground-mounted system. Mayor Nuffort stated that there is a solar energy grid whereby solar energy is available through Xcel Energy Co., and various solar energy "farms" in the metro area. Participation in such programs result in savings to residential energy users.

Mr. Allen stated that he believes the City should do its due diligence to determine if plausible reasons exist to justify denial of ground-mounted systems entirely. He stated that he is not aware of any other City which does not allow ground-mounted solar energy systems. He asked if the Council would reconsider its Ordinance in order to allow such systems.

Mayor Nuffort asked the Councilpersons if any of them wished to reconsider and none were in favor of doing so. The proposed system in this case was to be 50 feet in length and 11 feet in height. Mr. Allen described it as being about the average size for residential use.

AGENDA: Mayor Nuffort asked for approval of the Agenda, with item #4 to be added, which is the proposed Ordinance whereby the City chooses to opt-out of M.S. 462.3593, the Statute providing for Temporary Family Health Care Dwellings. Upon Motion by St. Martin, second by McCarthy, the Council unanimously approved the Agenda for this meeting with the addition of #4.

MINUTES: Mayor Nuffort called for the approval of the July Council Minutes. Upon Motion by Pazlar, second by St. Martin, the July 12, 2016 Council Minutes were unanimously approved as submitted.

ASSESSOR REPORT: The City Assessor for Dellwood, Mr. Dan Raboin, was present to describe the results of sales of property in Dellwood in the past year. Mr. Pazlar asked if land values were on the increase in Dellwood. Mr. Raboin stated that it appears to be so based upon a few recent sales of vacant properties, particularly in the Peninsula area. Mayor Nuffort asked if a homeowner must appear at the City Tax Equalization Board meeting in order to preserve his or her right to contest property taxes. Mr. Raboin explained that one who fails to raise objections at the City level cannot later do so at the County level. However, anyone has the right to file a Petition in the Tax Court in order to contest property taxes whether or not that person appeared at the City meeting. Mr. Copeland asked if the City can recover from the unsuccessful Petitioner in Tax Court the costs charged to the City by the Assessor's office for its appearance and work incurred in a Tax Court proceeding. Mr. Copeland noted that there is a likelihood that more petitions will be filed in Tax Court in the future, and the City should budget for that possible expense. The City's exposure in Tax Court appeals is currently about \$300 for each appeal.

2017 PROPOSED BUDGET: Mike McGill reported no changes from the preliminary budget figures. He is recommending that taxes remain as they are. Mayor Nuffort distributed a summary of legal costs in nearby communities. A discussion was held regarding bond issues and whether new bonding in 2018 will result in an overlap of expenses. McGill stated that is something to keep in mind for 2018, but it would not affect the 2017 budget. Mayor Nuffort noted that the 2017 budget figure will be finalized at the September Council meeting.

ANNUAL LIABILITY COVERAGE WAIVER FORM: The form from LMCIT was reviewed and discussed. Mr. Copeland recommended that the City does not waive the monetary limits for municipal tort liability which is set by Minnesota Statute 466.04. Upon motion by St. Martin, second by McCarthy, the Council voted unanimously to not waive the statutory monetary tort limits set forth in M.S.466.04.

TEMPORARY FAMILY HEALTHCARE DWELLINGS: Mr. Copeland presented a proposed Ordinance whereby the City elects to Opt-Out of the State Statute providing for Temporary Family Healthcare Dwellings. Upon motion by St. Martin, second by McCarthy, the Council unanimously resolved to Opt-Out of M.S. 462.3593 and to prohibit Temporary Family Healthcare Dwellings as described in the Statute (Ordinance attached).

CLAIMS AND RECEIPTS LIST FOR JULY 2016: The Claims and Receipts List for the month of July 2016 was reviewed and discussed. Upon Motion by Pazlar, second by McCarthy, the Claims and Receipts List for July 2016 was approved unanimously.

REPORTS OF COMMISSIONERS:

St. Martin reported that 6 remodel permits were issued in July.

Pazlar noted that the Dellwood Living Magazine appears to be going out of business. He also noted that the July Council Minutes recite that Mr. Desmit was to provide to the Council an updated site plan for the Seven Vines Winery Building, parking area, and septic system. Mr. Copeland stated that he has not seen anything since the July Council meeting. He will contact Mr. Desmit to determine when that information will be forthcoming.

Pazlar stated that he could not get information on the Sheriff's ICR Report for July and will follow up on this.

Mike McGill reported \$440,166 in the General Fund after payment of July claims.

There being no further business, the meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator