

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
SEPTEMBER 12, 2017**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on September 12, 2017, at the City Hall Offices located at 111 Wildwood Road, Willernie, MN.

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

ABSENT: Scott St. Martin

Mayor Nuffort called the meeting to order at 5:31 p.m.

Mayor Nuffort asked for public comment. Washington County Deputy Sheriff gave an update on activities within the City and surrounding area. He noted some problems involving driving conduct on Apple Orchard Road. He has spoken with residents about traffic back-up on Apple Orchard Road during certain peak business days at the Apple Orchard. In the past cars have been backed-up from the Orchard to Highway 96. The Sheriff's office is exploring ways to alleviate this problem. He mentioned that there have been numerous vehicle break-ins in Mahtomedi and Dellwood.

Mr. Cuff noted that at least six citations have been issued to persons failing to stop at the sign on Apple Orchard Road and Tamarisk Road. The Sheriff's office is trying to establish a presence there and have ticketed flagrant and second offenders. Mr. Pazlar noted that the Stop Sign at that intersection has been removed by vandals four times.

Mr. McCarthy asked if the visibility problem has been resolved. Mr. Pazlar stated that the homeowner on Apple Orchard Road has trimmed back the vegetation which had partially obscured visibility for traffic approaching the intersection from the north.

Mr. Cuff stated that an informal bid to put double stripping on Apple Orchard Road was in the amount of \$3250. Ken Johnson is looking at other options.

Mayor Nuffort asked for approval of the Agenda. Upon Motion by Cuff, second by McCarthy, the Agenda for the meeting was unanimously approved with no changes.

MINUTES: The Minutes of the August 8, 2017 Council meeting were reviewed. Upon Motion by Pazlar, second by Cuff, the Minutes of the August 8, 2017 Council meeting were approved unanimously, without changes. Mr. Copeland stated that a copy of Mrs. O'Connor's letter could be attached to these Minutes.

35 EVERGREEN ROAD: The first item of business was the flooding issue at the O'Connor property, 35 Evergreen Road. Cara Geheren discussed the report of Jake Newhall of WSB & Associates dated August 1, 2017 and the fact that soil borings disclosed subsoils consisting of seven feet of clay, over two feet of sand material and 5 feet more of clay under that. This condition will not allow a filtration/ pond area to

handle the surface water flowing onto the 35 Evergreen property. A new drain pipe has been installed by the homeowners in the same location as before. This was done with a permit from the Rice Creek Watershed District. The pipe, as before, runs under the garage and the house.

Cara Geheren discussed drainage of surface water which falls onto the street right of way. This flow may have to be addressed by the City by way of a curb and gutter which could be installed as part of a future street improvement project.

Mr. Pazlar asked what costs have been incurred by the City to date in connection with this matter. Ms. Geheren stated that the City had approved up to \$2000 for investigation, soil borings, etc., and that the cost of that alone she believes is less than that amount. There are other costs for engineering fees. She will determine the actual amount and report to the City. She feels that the City cannot proceed further until we see what happens with regard to the pipe installed by the O'Connors. She suggested that this matter be put on the October Council meeting Agenda for further discussed purposes and update.

SEVEN VINES WINERY: Planner Nate Sparks discussed his Memorandum dated September 6, 2017 (copy attached). The matter originated by way of an Application of the Winery for a Building Permit, to construct patio/ pergola areas, as well as an additional building for storage purposes. The Inspector was in doubt as to his authority to administratively approve a Permit and contacted Mr. Sparks. After that, the Winery withdrew its request for an additional storage building.

Mr. Sparks and Mr. Copeland discussed the remaining issues being the patio/ pergolas. The final Site Plan approved by the City in connection with the Amended I.U.P. issued on May 9, 2017, showed a patio area on the westerly side of the property. The Winery had decided to move that patio area from the west side to a location in the front (south side) of the building.

Mr. Mark Bismark and Janae Katz were present to speak on behalf of the Winery. They stated that a decision was made to move the patio area in consideration of the concerns expressed by the neighbor Mr. Appledorn about noise. Moving the patio area from the west to a location to the south and east would help to address those concerns. There is also a patio/ pergola area planned to be located on the east end of the building. The winery people stated that the total square footage of the two patio areas does not exceed that of the patio area originally planned and approved. The pergolas will provide shading for the patio areas. They will have adjustable louvered covers.

Mr. McCarthy asked what was left on the west side where the patio area was originally planned. Mr. Bismark stated it was grass and trees. Mr. Pazlar noted that as you leave the main event center to the west, you go out to a covered patio 6 – 8 feet before there is any grass area. He stated that all in all it appeared to be a very nice area. Mr. Pazlar questioned Mr. Sparks with regard to his statement in his memorandum that the patio/ pergola areas were not "fully enclosed". Mr. Sparks stated that the sides are mostly open as is the roof, and therefore not considered to be buildings, as such.

Mr. Pazlar expressed his concerns as to the propriety of the Council taking action on this matter without a public hearing. Mr. Copeland stated that in his opinion, a referral to the Planning Commission and a public hearing was not required under the circumstances. The Amended IUP issued on May 9, 2017 contained a condition that there be no further expansion of the buildings or use beyond that shown in the approved site plan and permitted by the Amended I.U.P.

Mr. Copeland and Mr. Sparks discussed the patio/pergola areas and agreed that the relocation of the westerly patio area and the placement of a patio area on the easterly side of the building did not appear to be an expansion of the building or of the use of the property. Because of the history of this project, they felt that the matter should be brought before the Council rather than approve a Building Permit to be issued administratively with no input from the Council. The request for a Building Permit included the proposed additional storage building, which request has been withdrawn by the Winery.

Mr. Copeland and Mr. Sparks believed that the changes to the patio areas were minor, were reasonable and within the parameters of the Amended IUP. Mr. Pazlar stated his concerns about the potential liability of the Council Members and the City for acting in this matter without a public hearing. Mr. Copeland stated that in his opinion, the Council has acted in a reasonable manner and has the authority to act on this matter without a further public hearing.

Mr. Pazlar asked Mr. Sparks if he was comfortable with the proposed changes, and Mr. Sparks stated that he felt that the changes proposed were minimal and within the scope of the Amended IUP. An updated Site Plan is to be prepared and attached to the Amended IUP.

Janae Katz stated that the Winery hopes to be open for business around October 1st.

Mr. Pazlar moved to approve the changes to the approved Site Plan, to be shown on the updated Site Plan, in conformance with the preliminary drawings submitted by the Winery and reviewed by the Planner and the Council. Mr. Pazlar then deferred to Mr. Cuff who moved that the Council approve the relocation of the patio area from the westerly side of the property to the location shown in front of the building, and the placement of a patio area on the easterly side of the building, and the placement of pergolas on the patio areas consistent with the drawings submitted to the City and described by Mr. Bismark and Ms. Katz and to be shown on an updated Site Plan to be attached to the Amended IUP. Mayor Nuffort seconded the motion and the Council unanimously resolved to approve the motion.

LAKE LINKS TRAIL PROJECT: Mr. John Sachi was present to speak on this matter, which was a request that the City approve a contract with the Engineering Firm WSB for services to be rendered in the preparation of a schematic design estimated cost of construction.

Mr. Sachi stated that he is also working with the City of Mahtomedi to obtain a similar contract with that City. The State Legislature has approved funding for the segment of the trail running through Dellwood and Mahtomedi for the purposes set forth in WSB's proposal. The amount of appropriation is \$38,000, which WSB proposes to be split equally between Dellwood and Mahtomedi. The proposal contains a clause which states that Dellwood's cost for WSB's services will not exceed \$19,000. There is a meeting scheduled on or about September 25th with MNDOT at which time further details will be available.

Mr. Copeland asked if MNDOT had completed its survey of the entire right of way of Highway 244 through Mahtomedi and Dellwood. Mr. Sachi stated that he believed that to be so, but that will be determined at the upcoming meeting with MNDOT. He stated that the trail will be within the public right of way although it is remotely possible that private property may be needed. There will be on-road and off-road parts but safety issues will be of primary concern in the design and location of the trail. Mr. Sachi stated that the entire length of the segment through Mahtomedi and Dellwood is 8200 feet and that he did not know the figure break down between the two Cities.

Mike McGill questioned as to whether the grant money from the State has been approved and when could the City expect to receive it. His concern is how to document this in the 2018 Budget which is to be finally adopted at tonight's meeting.

Mr. Sachi stated that there will be a separate reimbursement agreement between the City and the State which guarantees that Dellwood will receive one-half of the approved \$38,000 appropriation. Mr. Sachi stated that WSB will bill Dellwood for \$19,000, no more, no less.

Mr. Pazlar expressed his concern regarding the process itself and the timing of payments. He feels that he needs further details in order to act on this proposal. Mr. Sachi stated that WSB cannot legally charge Dellwood anything unless and until the City has in place the reimbursement agreement with Met Council. The signing of the agreement will trigger the process of getting the reimbursement agreement prepared and signed.

Mr. Cuff moved to accept the proposal of WSB as contained in the letter to the City of Dellwood dated September 7, 2017. Mayor Nuffort seconded the motion. Mr. Pazlar stated that he needs to have further information before voting on this proposal. Mr. McCarthy stated he also needs further input. Mayor Nuffort stated that it is possible to get summary information from Met Council. Mr. Pazlar referred to a statement by Mr. Sachi that there is no urgency to act at this meeting. Upon a vote, Cuff and Nuffort voted in favor of the motion. McCarthy and Pazlar voted no, and the motion did not pass.

FEE SCHEDULES: The next item was the proposed Ordinance submitted by Mr. Sparks establishing a fee schedule for all fees required by the City in connection with various requests and applications. The proposed Ordinance is attached to these Minutes. This Schedule can be amended by a further Ordinance at such times as changes are needed. Mr. McCarthy moved to approve the proposed Ordinance and Mr. Pazlar seconded. The Council resolved unanimously to approve the motion.

ADOPT 2018 BUDGET: There was a discussion about items referring to Water Management Plan projects and the \$19,000 consulting fee for the Lake Links Trail Project. It was determined that Water Management Plan items would be included in the roadway (culverts) section of the Budget and that the \$19,000 consulting fee, which appears to be inevitable, will have its own specific account, with both income and expense totals to increase by \$19,000.

Upon motion by Cuff, duly seconded, the Council resolved to approve the 2018 Budget as previously submitted, with the changes made to reflect the account in connection with engineering consulting services for design and location of the Lake Links Trail.

LMCIT INSURANCE: The renewal of the Liability Insurance Policy with the League of Minnesota Cities was unanimously approved, with not waive of the statutory liability limits.

CLAIMS AND RECEIPTS LIST FOR AUGUST 2017:

The Claims and Receipts List for the month of August, 2017 was reviewed and discussed. Upon Motion by Pazlar, second by McCarthy, the Claims and Receipts List for August 2017 was unanimously approved as submitted.

REPORTS OF COMMISSIONERS:

Cuff reported at least 6 citations issued for failure to stop at Stop Sign on Apple Orchard Road and Tamarisk. He also reported that work on the damaged culvert on South Peninsula Road can wait until

street improvements are scheduled. The water level in the triangle wetland is lower than the culvert at this time. Thomas Miller of 55 Glen Edge has complained about barking dogs and wants the City to enforce its Ordinance. Copeland stated that he needs a complaint and a witness to the days and times of barking in order to bring a formal complaint. The Sheriff may be of help but not likely unless there are specific times when the dogs are usually out and barking. There was a discussion on whether the City should be more proactive in enforcement of its Ordinance rather than respond only to complaints of citizens.

Pazlar reported 12 Permits, for re-roofs and window replacements.

Cuff reported that it may be possible to get Apple Orchard Road stripped for around \$2000 to \$2500.

McCarthy moved to approve expenditures of not more than \$2500. Cuff seconded and the Council approved unanimously.

McGill report a balance of \$430,598 in the bank. The City is in good shape financially.

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

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator