

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
NOVEMBER 7, 2016**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on November 7, 2016.

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

PRESENT were Mayor Nuffort, Councilpersons James Cuff, Frank Pazlar and Edwin McCarthy; City Clerk Joanne Frane, City Attorney Richard Copeland, and Treasurer Mike McGill and City Planner Nate Sparks.

ABSENT: Councilman Scott St. Martin.

ALSO PRESENT: The persons listed on the attached sign-in sheet. There were no persons present for public comment.

Mayor Nuffort asked for approval of the Agenda. He noted that he wished to add four additional items for discussion purposes:

- 1) Lake Links Trail;
- 2) City Office Update;
- 3) Solar Energy Ordinance;
- 4) City Holiday Party.

Upon motion by Cuff, second by McCarthy, the Agenda including the additional four items was unanimously approved. Mayor Nuffort asked for approval of the Minutes of the October 11th Council Meeting. Upon motion by Pazlar, second by McCarthy, the Minutes of the October 11, 2016 Council Meeting were unanimously approved, as submitted.

LAND USE REQUEST PERTAINING TO THE PROPERTY AT 6990 117TH STREET NORTH: This property lies partially in the City of Grant and partially in Dellwood. It is agricultural property and zoned F/E Farm Estate in Dellwood.

Pazlar distributed a sheet summarizing the Application procedures to be followed in processing and considering land use requests such as Variances and Use Permits.

Sparks described the request for the property at 117th Street North, which is for construction of a boundary fence 8 feet in height. Dellwood Ordinance No. 93.02 provides that any fence in excess of 6 feet in height requires a Conditional Use Permit. In considering this request the Council must determine whether the placement, height, or design creates a safety hazard or negatively affects the adjacent properties. This is to be a welded wire fence as is common in agricultural areas.

Copeland commented that the Council should consider this as an Interim Use Permit in order to allow the City to review the Permit from time to time. Sparks agreed that an 8 foot high fence may not be appropriate in the event the property is no longer devoted to agricultural uses. Copeland noted that the Planning Commission had held a public hearing on this matter on November 1, 2016. There were objections voiced by some people at the hearing and there were others in favor of the request.

The Planning Commission determined that the 8 foot high fence was a reasonable use and recommended approval of the request.

Chuck Lucius, the property owner explained the reason for his request. There is in existence along the property lines in the City of Grant an 8 foot high fence. Mr. Lucius wishes to join with and match the existing fence. He will have crops on the property and wants to keep deer and other destructive animals from entering his property. He also has farm machinery and equipment on his property and wants to keep children and others off the property. The fence is 95% open space and will be professionally constructed. He wants the fence to match the existing fence in appearance.

Curt Kufner and Tania Kufner of 11 Bayhill Road spoke in favor of the request. They do not believe that the 8 foot fence would adversely affect any other properties in the area, and probably would be an improvement.

Copeland had emailed a letter to the Council earlier in the day summarizing the duties of the Council in considering this request.

Pazlar reported that Councilmember St. Martin had called him prior to tonight's meeting from an out of state location and had not had an opportunity to read and consider Mr. Copeland's letter. He asked that the matter be tabled until the December Council meeting. Councilmember McCarthy also stated he had not had time to consider the letter.

Upon motion by McCarthy, second by Cuff, the Council resolved to continue this matter to the December 13, 2016 Council meeting.

VARIANCE REQUEST AT 98 DELLWOOD AVENUE: This matter was previously considered at the October 11, 2016 Council meeting and at that time the Applicants offered to try to come up with an alternate plan. The Council agreed at that time that the Applicants could come back to the Council directly with any revised plan, or otherwise, without having to go back to the Planning Commission.

Matt Burton of Southview Design had submitted a revised plan but upon discussion with the installer of the existing septic system Brian Kline, he concluded that the revised plan is unworkable. It may be technically possible at an exorbitant cost, but moving the septic lines will likely bring about other problems including inadequate drainage. He stated that the property does not have an alternate septic system location. The only system is the one in place. The mound cannot be placed in any other location. The wetland area cannot be filled in. They may be able to work with a setback of 8 feet from the McCarthy property line.

Gayle Brown the property owner stated that the proposed location of the garage sits "way below" the McCarthy property and will have no bearing on the McCarthy property because of the contours and trees now in place, the garage would not be visible from the McCarthy property.

McCarthy recused himself and stated that the revised plan is doable and is the least harmful to all concerned. The revised plan may be more expensive but the septic lines can still be moved.

Mr. Burton stated that he had met with the original septic system installer, Mr. Kline, who told him that the system should not be touched at this time. The City Planner, Mr. Sparks said he had the City Septic Inspector, Mr. Humpal, inspect the revised garage site and it was concluded the site was possible but

challenging. Mr. Burton stated that Kline's letter clearly states that surface water flow cannot be redirected around the foundation of the home.

Pazlar inquired as to whether it is plausible to build on that location without having septic system problems. Burton stated that according to Brian Humpal the revised plan would be "challenging". Aside from the huge costs involved it is just not a good idea from an engineering standpoint. With the plan he is proposing the surface water drainage can be directed to where it needs to go. A copy of Mr. Kline's report is attached to these Minutes.

Pazlar stated that on-site septic systems are most important to the City and should not be put in jeopardy. He is persuaded by Humpal's comments as relayed by Mr. Sparks.

Mayor Nuffort stated that he believes the peak of the roof of the garage under the original proposal may be less noticeable than under the revised plan. He believes the original plan allows for better surface water flow.

Cuff stated that he wants Brian Kline and Brian Humpal to meet together at the property and to give the Council better direction as to how this matter should be handled.

McCarthy stated that the original plan location requires a Variance of about 24 feet and is not reasonable. He does not agree that a garage is necessary on this property.

Pazlar stated that he believes a property owner should be able to use his or her property in a reasonable manner. If the two septic system experts say the revised plan is not a good idea then he would seriously consider approval of the original site plan with an 8 foot setback. He is not aware of any stated harm that would be caused to the neighbor's property.

Cuff moved that the original septic system designer, Mr. Kline, and the Dellwood Septic Inspector, Mr. Humpal, meet together on the property and report to the Council as to whether the revised plan is or is not a good idea; what dangers may be involved and give the Council some expert direction as to how best to handle this request. Mayor Nuffort seconded the motion and the Council resolved to do so. (McCarthy recused).

2017 LIQUOR LICENSE APPLICATIONS BY WHITE BEAR YACHT CLUB AND DELLWOOD COUNTRY CLUB:

Pazlar moved to approve both licenses. Cuff seconded. The motion was approved unanimously.

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

DISCUSSION ITEMS:

LAKE LINKS TRAIL. Mr. Steve Wolgamot of 1837 Park Avenue, Mahtomedi, was present to discuss the proposed pedestrian trail around White Bear Lake as it passes through Dellwood. He pointed out that in the past; MNDOT has claimed that there is no available public right of way along Dellwood Avenue, beyond the roadway itself, to accommodate a trail. His considerable research of available County and State records shows otherwise. He distributed a packet of material including maps and history of Dellwood Avenue (Trunk Highway 244), and letters from MNDOT to support his position. He was accompanied by Dorian Griley of 214 Park Avenue, Mahtomedi. Griley is the Executive Director of Bike

MN, Bicycle Alliance of Minnesota. They stated that MNDOT is now in the process of surveying Highway 244 throughout the City of Dellwood to determine exactly where the public right-of-way is located. They are seeking support from the City of Dellwood for a trail, because the word on the street is that Dellwood will never allow it. Wolgamot claims that sufficient right-of-way exists to safely allow for a 10-foot wide trail without the need to acquire private land.

Mayor Nuffort asked why the need for a trail “around the lake” and who would be the users. Pazlar asked where does the money come from? Wolgamot stated that the trail will likely be funded entirely by MNDOT and grants which are available. Highway 244 is scheduled for overlay in 2018. MNDOT would like to turn Highway 244 over to the County but is unable to do so because of existing laws which would require extensive improvements.

Grilley stated he would like the City to make inquiry of MNDOT to inform the City as to where plans stand at this time, and what lies in store for the future.

Pazlar stated that the City should get up front on this. He suggested that Nate Sparks initiate contact with Washington County Officials and with MNDOT to get a picture of where things stand at this time and the timetable for things to come. He stated funds are available in the Budget to allow for this study. The Council authorized Sparks to proceed with his investigation and report back to the Council.

CITY OFFICES: Mayor Nuffort noted that the City of Willernie has arranged for an environmental assessment of the City Offices for possible mold contamination. This is due to take place Wednesday November 9th.

SOLAR ENERGY: The Solar Energy Ordinance was discussed. Nate Sparks is in the process of preparing a proposed Solar Energy Ordinance with his experience in dealing with other Cities in the area. This proposal will be reviewed jointly by the City Attorney, the Chair of the Planning Commission and the City Building Commissioner.

ANNUAL HOLIDAY PARTY: The annual Holiday party may have to be held other than on a Tuesday, Council meeting night. Dellwood Country Club may not be available this year. Pazlar will check into this and advise the City as soon as possible.

REPORTS OF COMMISSIONERS: Mr. Cuff brought up for discussion that there is blocked drainage way from the large pond easterly of Bayhill Road in the Plat of Meadow Ridge, which is causing surface water to back up and flood some private properties. Ken Johnson stated that he had contacted a contractor with whom he is familiar who has the equipment to clean out the obstructions.

Pazlar reported that there were 5 remodel permits and 1 new home permit issued in October.

McGill reported \$351,299 in money market funds after payment of October claims.

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator