

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
DECEMBER 13, 2016**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on December 13, 2016.

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

PRESENT were Mayor Nuffort, Councilpersons James Cuff, Frank Pazlar, Edwin McCarthy and Scott St. Martin; also present were City Clerk Joanne Frane, City Attorney Richard Copeland, City Sewer Inspector Brian Humpal, Treasurer Mike McGill and City Planner Nate Sparks.

ALSO PRESENT: The persons listed on the attached sign-in sheet and Deputy Randy Welms.

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

Deputy Helms of the Washington County Sheriff's Office gave an update on recent activities involving the Sheriff's Office. He noted that calls were down a bit. He asked that residents call 911 in the event of suspicious vehicles in the City. 911 brings up information as to the location of the caller and this works for cell phone users as well.

Mr. Copeland noted that **Ted and Joyce Cardozo** were present with regard to the lot split between them and the Kohlers. He stated that this matter is simply a correction of the legal description of the two resulting lots. The County Recorder declined to accept the original deeds for recording because of a perceived problem with the descriptions. These descriptions have now been revised and new deeds have been drafted for recording which have been approved by the County Surveyor. Mr. Copeland stated that the new descriptions do not change the configuration of the lot split which had been previously approved by the Council. Mr. Copeland stated that two resulting lots are not buildable lots on their own, and are combined with the existing Cardozo and Kohler properties respectively. He stated that he will endorse the deeds on behalf of the City, approving them for recording with the County.

APPROVAL OF AGENDA: Mayor Nuffort asked for approval of the Agenda with the addition of the Variance request at 98 Dellwood Avenue, Chris and Gayle Brown. Upon motion duly made and seconded, the Agenda for the meeting was approved with the addition noted.

APPROVAL OF MINUTES: Mayor Nuffort asked for approval of the Minutes of the November 7th Council Meeting. Mr. McCarthy noted that the Minutes on page 3 should be changed to reflect that he had recused himself from the matter, rather than abstaining as stated in the Minutes. Upon motion by Pazlar, second by McCarthy, the Minutes of the November 7, 2016 Council Meeting were unanimously approved with the foregoing change.

LAND USE REQUEST PERTAINING TO THE PROPERTY AT 6990 117TH STREET NORTH / MR. LUCIUS:

Mr. Pazlar noted that this matter was brought before the Council at the November meeting, but was tabled at that time because the Council members did not have sufficient time to review and consider some last minute submissions. Mr. Lucius is seeking a Conditional Use Permit to allow for a boundary fence eight (8) feet in height. The Ordinance requires a fence over 6 feet in height to have a Permit. This property lies partly in the FE Zoning District in Dellwood. The rest of the property lies in the City of

Grant. The property is devoted to agricultural uses and Mr. Lucius does now and intends to use the property as a working farm including the growing of crops. He stated that the 8 foot high fence is needed to prevent deer and other animals from entering the property. He wants to connect the fence to the existing fence around the Grant portion, which the fence is 8 feet in height.

The Planning Commission held a public hearing on 11/1/16 and has recommended approval.

Mr. Copeland stated that he believes the Permit should be in the form of Interim Use Permit which could be reviewed by the City in the future.

Pazlar asked if a Permit period of five years would be appropriate, with a review at that time to confirm that all conditions have been met, or to make changes if necessary. He also asked that the Permit be revocable in the event the property ceases to be used for agricultural purposes. The Applicant, Mr. Lucius said he agreed with the two Interim Use Permit guidelines.

The Council reviewed the report and recommendation of the City Planner Nate Sparks dated December 7, 2016 and determined and found that issuance of a Permit to allow a fence 8 feet in height would not:

- 1) Unreasonably increase congestion 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 Ordinance and the Comprehensive Plan of the City.

The Council further determined that the proposed fence will not create a safety hazard and will not adversely affect adjoining properties to an extent which would justify denial of the Permit. The Council determined that the proposed fence is a reasonable use of the property in the F/E (Farm Estate) District. Upon Motion by Pazlar, second by St. Martin, the Council unanimously approved the adoption of the Resolution attached to these Minutes.

VARIANCE REQUEST AT 98 DELLWOOD AVENUE: This matter has been before the Planning Commission and the Council previously, but has been continued for the purpose of allowing the Applicants to revise their initial request in light of various concerns raised by the Council members. The Applicants have agreed that the 60 day time period rule under M.S. 15.99 is extended to February 14, 2017, because the Applicant wishes to have the opportunity to submit further revised plans to the City for the purpose of addressing the continued concerns of the Council members. The City Council has agreed to withhold final action of this request pending receipt of additional information from the Applicants. The main concerns relate to the location, size and height of the garage structure, and the report of Brian Humpal, City Sewer Inspector, regarding the design and location of the septic system.

The report and recommendations of the City Planner were considered by the Council members, a copy of which is attached to these Minutes.

McCarthy recused himself from this matter except to state his objections to the proposal. He noted that placement of the garage and its height would degrade the area of his property which lies adjacent to the proposed garage area. It will not receive sufficient sunlight to support the vegetation, and will affect the utility lines and holding tank located in that area. Mr. McCarthy stated that he believes the request is

unreasonable, shifts problems from the Brown property to his property, and that the problems the Browns may have are created by themselves.

Mr. Matt Burton spoke on behalf of the Applicants and stated that they have no alternatives as to the location and design of the septic system and that Brian Humpal has advised against moving the existing location of the system.

There was much discussion among the Applicants and the Council members relating to whether the proposed garage could be downsized from the dimensions shown in the plans, and building with a setback of at least 10 feet. Mr. Burton and Gail Brown stated that the need is for a 3 car garage of at least standard 3 car size and for additional storage space to accommodate inside storage of household vehicles and equipment.

Mr. Pazlar stated that a garage 40 feet wide is oversized in his opinion and could be smaller. Mr. Burton noted that he is not the designer of the garage. The intent is to match the appearance and roof line of the main house. He will attempt to consult with the architects for the purpose of exploring the possibility of designing a smaller garage. Mr. McCarthy stated that the height is important.

Mr. Cuff noted that the Ordinance requirement is a setback of 30 feet. The request here is a significant departure. He urged the Applicants to try for a setback of at least 10 feet.

Nate Sparks noted that the design of the garage roof, being a peaked roof, is driving the height issue. St. Martin stated that he understands the Applicants desire to match the configuration of the main house.

Mr. Pazlar noted that the Council is lacking building plans for the garage and feels that the submission is not complete. He wants to see the actual design of the garage with dimensions and height, and that such design should conform to the standard design of a 3 car garage, keeping in mind the height issue. He feels that a small garage would be more favorable to the Council. He suggested that the Applicants work closely with the City Planner in order to come up with a proposal, more in keeping with what the Council is looking for. The Applicants agreed to do so and come to the Council in January. Mr. Copeland will send a letter to the Applicants confirming their agreement to extend the period in which the City may continue to consider a final decision on this matter. That period expires on January 13, 2017 and the Applicants requested an extension to the February Council meeting.

BRIAN HUMPAL ANNUAL REPORT REGARDING SEPTIC SYSTEM INSPECTIONS: Mr. Humpal submitted his Report, a copy of which is attached to these Minutes. There is a requested increase in the site plan review fees. The work involved in reviewing a non-standard system is usually more involved. Mr. Pazlar asked how often separation is a problem and Mr. Humpal stated that separation is almost always a concern. Many older systems in the City do not meet the current separation requirement but are grandfathered in if a Permit was issued for the system prior to April 1, 1996. Mr. Humpal stated that the County requires periodic pumping and tries to keep accurate records in order to send out reminder notices. He says that some pumpers do the work and collect the fee but do not send the paperwork to the County.

St. Martin moved to accept the Annual Report and approve the increased fees. Cuff seconded and the Council unanimously approved.

Nuffort noted that some locations have high levels and Mr. Humpal stated that he cannot effectively deal with these unless they present a health hazard.

McCarthy asked how many systems rely on a lift station as opposed to gravity. Mr. Humpal stated that about 90% of newly installed systems rely on pumping; about 1/3 of the older systems have a lift station.

Brian Humpal discussed the situation at **3 Spyglass Road**. A Land Use Application has been submitted. He described the history of this lot and believes that extensive filling was done in the early 1980's. The lot has poor soils to accommodate a workable septic system. The proposed design provided by the Applicants is not acceptable. Mr. Humpal may be able to approve some kind of system, but only with the approval of a professional Engineer. Even then, Variances will be needed. There are wetlands on the property which create a problem; this lot will not support a standard system and does not appear to have sufficient suitable area for a primary and a secondary septic treatment disposal area. McCarthy asked how many existing systems lack a secondary alternate treatment area. Mr. Humpal replied that many, if not most, of the lots along the WBL shoreline do not have a secondary site.

YEAR 2017 BUDGET-PUBLIC HEARING: Mike McGill stated that the 2017 Budget, up for final approval, is basically the same except for the addition of a budget amount for Planning. The bottom line remains the same as approved in September. Pazlar moved for approval, second by St. Martin, the Council voted unanimously to approve the final budget figures, as submitted.

POLICE CONTRACT: Mr. Cuff noted on page 2, paragraph 2, the word "shall" should be replaced with the word "may" in the last sentence of paragraph 2. Mr. Cuff inquired about remittance to the City of fines collected by the District Court. Copeland stated that the City does receive a percentage of fines paid and the County does also. Fine money remitted to the City depends upon the number and type of citations issued by the Sheriff's deputies in Dellwood. He noted that such activity has declined in the past year.

Upon Motion by Cuff, second by McCarthy, the 2017 Contract with the Sheriff for Police Services was unanimously approved for renewal.

TIMBERLINE TREE SERVICE: Mr. Cuff stated that the rates established by Timberline are reasonable and the insurance provided is standard for the industry in general. He noted that Timberlines services to date have been very good. The contract up for renewal begins in February and is an annual contract. Upon Motion by St. Martin, second by Pazlar, the renewal of the contract with Timberline Services for one year commencing in February 2017 was unanimously approved.

ELECTION RESULTS CANVAS: Mr. Cuff noted a turnout of 86% of eligible voters. Pazlar stated there were 17 write-in votes. Mayor Nuffort read the Motion supplied by the County. Upon Motion by Cuff, second by McCarthy, the Resolution was unanimously approved as submitted.

CLAIMS AND RECEIPTS LIST FOR NOVEMBER 2016: The Claims and Receipts List for the month of November 2016 was reviewed and discussed. Cuff noted that on page 3, the figure of \$14,656 represents Timberlines charges for the entire year. He will ask Timberline to submit quarterly statements. The major expense was for buckthorn removal, which has been mostly completed, and this expense should not recur in 2017. The budgeted figure of \$12,000 was exceeded due to the extra work

done in 2016. Upon Motion by St. Martin, second by McCarthy, the Claims and Receipts List for November 2016 was unanimously approved as submitted.

REPORTS OF COMMISSIONERS:

Mr. St. Martin noted that in the Sheriff's ICR Report for November, eight of the 32 calls involved alarms, false or otherwise. He noted one call was to the Mike Laub residence. Mike served the City as Ombudsman and did a great job. Mike Laub died on November 12, 2016.

Mr. Cuff reported that the flooding problem in the Meadow Ridge/Bayhill Road area appears to have been resolved. Examination disclosed a large log blocking the drain pipe. This obstruction has been removed and the water now is receding.

Pazlar reported on 2 building permits, two A/C & Heat and two Plumbing permits.

McGill reported \$567,883.43 in money market funds after payment of November claims. The City has received the second half property tax payment.

Mayor Nuffort reported Xcel Energy is planning to update street lighting in Dellwood in the Spring of 2017.

Mold has been removed from the City's closet area and the basement has had foam spray insulation added. The City rents its office space from the City of Willernie under a month-to-month lease at a rate of \$325 per month plus utilities.

There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator