

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
OCTOBER 9, 2018**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on October 9, 2018.

Present: Mayor Nuffort, Councilpersons – Jim Cuff, Edwin McCarthy, and Scott St. Martin; also present were City Clerk Joanne Frane, City Treasurer Brady Ramsay, City Attorney Richard Copeland, City Planner Nate Sparks, and also the persons shown on the Sign-In Sheet attached to these Minutes.

Absent: Councilperson Mike McGill.

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

Mayor Nuffort asked if anyone was present for public comment. Attorney Richard Galena spoke on behalf of the Jensen's who are the property owners of the land upon which a boardwalk has been constructed by easement holders, the Rindelaub's. Galena distributed a letter from him addressed to the City Council dated October 9, 2018; a letter from Chris and Gail Brown of 98 Dellwood Avenue (Jensen's neighbor) dated October 9, 2018 and an undated letter from Chris and Gail Brown. All letters are asking the City to order the removal of the boardwalk, as being in violation of City Ordinances. Galena also submitted a photograph of the boardwalk in place. Mayor Nuffort stated that City Staff is engaged in discussions with the Rindelaub's attorney to resolve the matter.

Mayor Nuffort asked for approval of the Agenda. Upon Motion by St Martin, second by McCarthy, the Agenda for this meeting was approved as submitted.

The Minutes of the September 11, 2018 Council meeting were reviewed. McCarthy's Motion to approve with correction of a typo on page 2 "falling" should be "failing", second by Cuff; the Minutes were unanimously approved as submitted.

Application for Variance-1 Yellow Birch Road: The first item on the Agenda was the Application by Jason and Elsbeth Ross for a Variance to allow for demolition of the existing garage and construction of a new garage in essentially the same footprint as the existing garage. Neither the existing garage building nor the location of the newly proposed garage complies with the City's Ordinances regarding setbacks from the side yard property line or the rear yard line, the yard facing Dellwood Avenue. The property is located at 1 Yellow Birch Road and is a substandard sized non-conforming lot in the R-2 Zoning District which requires a minimum lot area of 2 acres. The lot in question is about 1 acre in size. Nate Sparks discussed his Memorandum dated October 3, 2018, copy on file. He noted that he and Attorney Copeland had reviewed the Application and all material submitted by the property owners and their contractor. He noted that the Planning Commission held a public hearing on October 2, 2018, and had recommended approval of the Application, with conditions.

Copeland stated that all of the residents on Yellow Birch Road had been duly notified of the public hearing and that no objections were made in writing or in person. Several residents in the area submitted letters to the City stating their approval of the request. Yellow Birch Road is not a public roadway and is not maintained by the City.

Mayor Nuffort inquired about a service door on the ground level. The Builder Jason Bohn stated that they will include a service door at the bottom level next to the garage doors.

McCarthy stated that he was not comfortable with the height of the garage being 24 feet. Sparks noted that although the City is considering changes to the Garage Ordinance governing height and size, the current Ordinance allows for a height of 25 feet.

St. Martin asked about the rock retaining wall now in place. Mr. Bohn stated that the existing wall will be removed and a new wall constructed to ensure proper drainage through the area. A parking space will be available next to the new garage building.

Mr. Bohn stated that the new garage will match the appearance of the exterior siding of the main house.

Upon Motion by St. Martin, seconded by Cuff, the Council resolved unanimously to adopt Resolution 2018-10, copy attached hereto.

Changes to Ordinance Regulating the Size of Garage Buildings and Accessory Structures: Nate Sparks discussed his Memorandum dated October 3, 2018. Copy on file. The Planning Commission held a public hearing on this matter on October 2, 2018 upon due notice. There were no objections received by the City or Planning Commission except that Andre Peltier appeared and stated that he did not believe the proposed Ordinance addresses the situation of his property and that the lowering of the maximum height was unreasonable. Sparks noted that there was much discussion about height issues throughout Staff review and at the Planning Commission level. The Council had indicated a height limitation of 20 feet. The Planning Commission recommended a maximum height of 25 feet.

Copeland had submitted a letter of opinion stating that aesthetics has been recognized by the Courts in Minnesota as being a legitimate subject for regulation by local authorities, including a requirement that the garage building match the appearance of the main dwelling, including color.

McCarthy stated that he believes 20 feet to be a suitable height for garages, to allow for some storage area. St. Martin stated that he feels that 20 feet is a reasonable height. Sparks discussed the various methods by which height may be measured. He has discussed this thoroughly with the City Building Inspector Jack Kramer. Sparks believes the definition set forth in the proposed Ordinance is proper and understandable.

McCarthy moved to approve the proposed revised Ordinance section 152.6D and 152.6E as set forth in the proposal with an addition to proposed section D.6.C.2, to provide that the appearance of the garage building match the main dwelling in color. Cuff seconded the Motion and it was approved by unanimous vote. The Council adopted a Resolution authorizing summary publication of this Ordinance in lieu of the entire Ordinance, finding that publication of the Summary will have the effect of giving satisfactory notice to all concerned of the provisions of the entire Ordinance.

Property Address Numbers: The next item of business was the clear display of house address numbers. Copeland and Sparks have presented a proposed Ordinance No. 2018-04. Upon Motion by St. Martin, second by Cuff, the Council unanimously resolved to enact the Ordinance as submitted (copy attached).

Cuff noted that the Building Inspector, Jack Kramer, would enforce the Ordinance. Cuff also noted that some old mailboxes are in deteriorated condition and unsightly. He believes the City should take action on this subject. Copeland will check in to this.

Temporary Gambling Permit: The next item was the Application for a Temporary Gambling Permit by Children's Health Care Foundation, a charitable tax exempt organization under IRS Code Section 501(c)(3). This is an event to be held on June 10, 2019 at the White Bear Yacht Club and includes a raffle. The Application has been found to be in proper order. Upon Motion by St. Martin, second by McCarthy, the Council unanimously approved the granting of the Permit with no waiting period.

Appointment of Planning Commission Member: Mayor Nuffort noted that Deb Flaherty Christopherson has agreed to serve as a Planning Commissioner and that the Planning Commission has recommended her for that position. Cuff moved to approve her appointment to the Planning Commission effective immediately. St. Martin seconded the motion and it was unanimously approved.

All Hazard Mitigation Plan Resolution: Copeland presented a proposed Resolution to adopt the Washington County All Hazard Mitigation Plan. After discussion, St. Martin moved to adopt the Resolution as submitted (copy attached). Cuff seconded the motion and it was unanimously approved by all Council Members.

Claims and Receipts List was presented and reviewed for September 2018. Upon Motion by St. Martin, second by McGill, the Claims and Receipts List for the month of September 2018 was unanimously approved, as submitted.

Reports of Commissioners:

St. Martin discussed the Sheriff's Report of activities in Dellwood. There were some reports of a fraudulent scam, without explanation. Copeland stated that he would try to obtain copies of the Sheriff's reports on these matters.

Cuff reported the presence of Emerald Ash Borer disease has been found in the City. A Management Plan is being developed which upon approved will be incorporated into the existing Ordinance which addresses diseased trees.

Ramsay reported a balance of \$620,896 in the City's account.

Nuffort noted Cara Geheren's summary bonding report for 2018 Road Improvements, copy on file.

Nuffort noted that the Planning Commission has decided to move its regular meeting date to the third Tuesday of each Month starting in January 2019.

There were six remodel permits and no new home permits issued in September.

There being no further business, the meeting was adjourned at 6:55 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator