

**MINUTES OF MEETING  
DELLWOOD CITY COUNCIL  
DECEMBER 11, 2018**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on December 11, 2018.

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

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

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

Upon motion by Cuff, second by St. Martin, the Agenda for the meeting was unanimously approved with a change to insert Engineer's Report as Item No. 2, and move the rest thereafter to No. 3 through No. 9.

Upon motion by McCarthy, second by McGill, the Minutes of the November 13, 2018 Council meeting were unanimously approved as submitted.

**2018 Septic Report:** Brian Humpal presented his written report dated December 11, 2018 summarizing the results of his annual inspection of all septic systems in the City. A copy is on file. Brian also discussed the new tracking system implemented to monitor the maintenance of septic systems. In addition to the annual inspection, The City Code requires a Compliance Inspection of any system on property being sold. He noted that many modern septic system covers are now made of plastic. Covers must be secured to prevent access by unauthorized persons. St. Martin moved to approve the Report, McCarthy seconded, and it was unanimously approved.

**Engineers Report:** Cara Geheren presented an update on 2018 Street Improvement work. Coring work has demonstrated that the structural integrity of the pavement in Meadow Ridge Estates is acceptable. The Contractor, Harddrives admits the work on the pavement itself was not done properly. Cara stated that a decision was made to allow Harddrives to submit a proposal to fix things. Cara has received a preliminary proposal and does not agree with some aspects of it. She will come to the Council meeting in January with options for the Council to consider. Mr. Cuff noted that Harddrives did a very good job on Quail Road.

Cara presented a pay request for items not related to the paving work, in the amount of \$12,765.25 and recommends that this bill be paid as it relates to top soil and fencing work. She makes no recommendation for payment for paving work until a resolution has been agreed upon with Harddrives. McCarthy asked if any of this dispute affects the bond. Cara replied that it would not. Nuffort noted that there was some damage to mail boxes, perhaps some landscaping and sprinkling systems. Cuff remarked that he is not aware of any resident complaints.

**Interim Use Permit for Dellwood Country Club:** Nate Sparks discussed the proposed extension of the Interim Use Permit (IUP) for another five (5) year period. Minor changes have been made to which the

Club has agreed. The Club has asked for inclusion in the IUP permission to conduct a Wine Club. Nate Sparks noted that this would be something in the future on condition that Dellwood Country Club obtains the proper permits from the State. It appears that the City could not permit a Wine Club operation without changes to the City's existing Ordinance regulating liquor sales. Mr. Copeland and Mr. Sparks are recommending that references in the IUP be deleted and that the Club can submit any application at a later time. With that exception they are recommending approval of the IUP.

St. Martin moved to approve the renewal of the IUP as recommended with deletion of the references to a Wine Club, with the Council being open to consider this at a later time. McGill seconded the motion and it was approved unanimously.

**Lot Split Request at 26 Dellwood Avenue:** Nate Sparks discussed his Memorandum to the City. He noted that the Planning Commission had held a public hearing on this matter on December 4, 2018 and had recommended denial of the request. The Applicants had submitted a letter stating that they had withdrawn their application for a lot split and asked that the matter be removed from the Council's Agenda.

Attorney Mark Duea was present on behalf of the applicants and stated that the applicants have the right to withdraw their request and therefore there is nothing before the Council at this time. There was a discussion about the reasons for withdrawing the request. Copeland stated that the question of applicant's right to withdraw and the timing of the withdrawal appear to be unsettled by Minnesota law. Mr. Duea stated that he had talked with several other City Attorneys and had done his own research, but could not come to any conclusion as to the law governing this issue. Copeland stated that the Council could consider the request withdrawn and the applicants would have to "start over" with any future request for a lot split. Alternatively, the Council could adopt the findings and recommendations of the Planning Commission.

Julie Whitaker of 20 Dellwood Avenue spoke on behalf of her family and on behalf of other neighbors, Leonards of 18 Dellwood Avenue. They are in opposition to the request and asked that the Council follow its Ordinance and the Planning Commission's recommendations.

McCarthy moved to adopt the Planning Commission findings and recommendations and deny the request for a lot split. Mayor Nuffort seconded the motion. McCarthy and Nuffort voted in favor of the motion. Cuff and St. Martin voted No. Mr. McGill abstained. The motion failed to receive a majority vote. McGill and Cuff stated that they believe the applicants should be allowed to withdraw their application at this time.

Copeland stated that the applicants did not appear personally at the public hearing and may not have been diligent in providing the Planning Commission with all of the information needed by the City to support the application. In light of due process requirements and the uncertainty about the law regarding an applicant's right to withdraw the request, he feels that the Council may properly consider the matter to be withdrawn and take no action at this time.

Council members decided to consider the request to be withdrawn.

**2019 Budget:** The Public Hearing on the 2019 Budget was held. Cuff noted that property taxes amount to 87% of the total City revenue. He noted that the item on page 3, road resurfacing and seal coating, \$45,000 is to be used for Apple Orchard Road from Highway 96 to the Orchard. Cuff moved approval of

the 2019 Budget as shown on the Budget attached. McCarthy seconded and the 2019 Budget was unanimously approved.

**Franchise Extension:** This is a request by Comcast of Minnesota joined in by Ramsey /Washington Suburban Cable Commission and Midwest Cable, Inc. to extend the franchise granted to Comcast of Minnesota which expired on November 1, 2018 and was previously extended to March 31, 2019. The request is to further extend the franchise agreement to and including August 31, 2019. The purpose is to allow the parties to further negotiate the terms of a renewal franchise agreement. This Agreement includes the Cities of Birchwood, Dellwood, Grant, Mahtomedi, Lake Elmo, North St. Paul, Oakdale, Vadnais Heights, White Bear Lake, Willernie and White Bear Township, all of which have to sign the Extension Agreement.

Upon motion by McGill, second by McCarthy, the Council resolved unanimously to approve the Extension Agreement and authorized the Mayor and Clerk to sign the same.

**Water Management Plan:** This is a part of the Water Resources overall plan. Staff, Mr. Sparks and Mr. Copeland have reviewed this over the past several months with RCWD, and are recommending approval. Upon approval, the Plan will be sent to RCWD for further review. St. Martin moved to accept the Water Management Plan. McCarthy seconded and it was unanimously approved.

**Tree Services-2019 Contract:** Mr. Cuff discussed the renewal of the contract with Timberline. He has reviewed this with City Attorney Copeland. Certain minor changes have been made to the contract submitted by Timberline. These changes have been agreed to by Timberline. McGill moved to accept the renewed contract with the changes noted by Cuff. His motion was seconded by Cuff, and it was approved unanimously.

**Pay Equity Report:** Upon motion by St. Martin, second by McGill, the Pay Equity Report, as attached, was accepted by unanimous vote.

**Claims and Receipts List:** Upon motion by St. Martin, second by McCarthy, the Claims and Receipts List for November 2018 was approved unanimously.

**REPORTS:**

St. Martin reviewed the Sheriff's monthly report. He questioned what the City is actually getting by way of police services from the Sheriff's office.

Brady Ramsay reported \$723,243 balance in the general fund.

McGill reported 6 remodel permits and one demolition (17 Peninsula).

Nuffort noted massive amounts of fill being hauled to 17 Peninsula Road. There may be damage to the roadway.

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

Respectfully submitted,

Joanne Frane  
Dellwood City Clerk / Administrator