



**MINUTES
CITY COUNCIL MEETING
June 21, 2016**

CALL TO ORDER

The meeting was called to order at 6:29 pm.

Present: Mayor: Donny Chillstrom; Council: Jahn Dyvik, Marty Schneider, and Liz Olson

Staff Present: City Administrator: Scott Weske; Planning Consultant: Addison Lewis; City Attorney: John Thames; and City Clerk: Jeanette Moeller

Absent: Council: Kurt Kaminski

PLEDGE OF ALLEGIANCE

LONG LAKE NEWS UPDATE AND WORK SESSION MEETING REVIEW

Mayor Chillstrom offered the following updates:

- During an EDA meeting held prior to the Council meeting, the EDA continued working on a draft request for development proposals for the Virginia Avenue property.
- Utility work is currently underway in the Watertown Road Improvement Project area, in preparation for the project beginning.

Lastly, Mayor Chillstrom encouraged shopping local as often as possible.

APPROVE AGENDA

A motion was made by Dyvik, seconded by Olson, to approve the Agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of June 7, 2016 City Council Work Session
- B. Approve Minutes of June 7, 2016 City Council Meeting
- C. Receive Minutes of May 17, 2016 EDA Meeting
- D. Receive Unofficial Draft Minutes of June 14, 2016 Planning Commission Meeting
- E. Approve Vendor Claims and Payroll
- F. Approve Proposal From Southwest Assessing for City Assessor Services for July 1, 2016 Through June 30, 2017
- G. Adopt Resolution No. 2016-24 Appointing Election Judges for the 2016 State Primary and General Elections and Establishing an Absentee Ballot Board
- H. Adopt Resolution No. 2016-23 Approving Issuance of Special Event Permit #S2016-04 for Corn Days 2016; Approve Issuance of Noise Variance Permit for Live Entertainment; Approve Issuance of 1 to 4 Day Temporary On Sale Liquor License; Approve Application for Exempt Permit for Gambling Activities During Corn Days 2016

A motion was made by Olson, seconded by Dyvik, to approve the Consent Agenda as presented. Ayes: all.

OPEN CORRESPONDENCE

No one appeared to address the City Council during Open Correspondence.

BUSINESS ITEMS

Presentation by Orono Public Schools – Mike Bash, Orono Schools Board Member

Mr. Bash provided a Powerpoint presentation reviewing Orono School District goals; the organization's mission statement; employment and workforce statistics; core values; discussing current facilities and future anticipated facility needs; community support and partnerships enhancing opportunities for students; school district statistics; and highlighting student academic achievements and learning opportunities available outside the classroom.

Bash also responded to Council member questions regarding possible future referendums, facility improvements, and open enrollment statistics.

Planning Case #2016-06 (Lisa Cochran, Jon Weidenbacher) / Expansion of a Non-Conforming Structure and Conditional Use Permit for an Accessory Structure Exceeding 900 SF of Floor Area at 235 Lakeview Avenue

Planning Consultant Lewis reported that in 2015, the applicant was approved for an expansion to a non-conforming structure and a conditional use permit (CUP) for an accessory structure exceeding 900 square feet for the purpose of reconstructing their detached garage with a second story bonus room. The existing garage is 22' x 32' and does not meet the required side and rear yard setback for accessory structures of 5 feet. The existing garage is setback 0.4 feet from the rear lot line and 2.1 feet from the north side property line.

The applicant's approval was to permit reconstruction of the garage with dimensions of 26' x 32' with a 2 foot setback from the rear property line and a 2.1 foot setback from the north side property line. At the time of the application, the applicant had preliminary drawings as opposed to complete building plans. Approval of the requests allowed for 1,248 square feet of floor area and a height of 18 feet as measured to the mid-point of the roof (average height between the eave and the ridge of the gable). After having complete building plans developed, the applicant applied for their building permit and it was found that the floor area of the proposed garage is 1,664 sq. ft. and the height is 20'3". The requests are needed to allow for a 416 sq. ft. increase in floor area and 2'3" in height. The additional floor area is all on the second story. The staff report from June 2015 stated that the second story bonus room was to be 13' x 32' (416 sq. ft.). The building permit application shows the bonus room as being 26' x 32' (832 sq. ft.). Therefore, the building footprint of the proposed garage would be the same as was approved in June of 2015 (26' x 32'), as well as the setbacks. The request is to increase the height from 18' to 20'3" and the floor area from 1,248 sq. ft. to 1,664 sq. ft.

At their regular meeting on June 14, 2016, the Planning Commission voted unanimously in favor of recommending approval of the request for an expansion of a non-conforming structure and conditional use permit to allow for an accessory structure exceeding 900 square feet of floor area at 235 Lakeview Avenue.

Applicant Lisa Cochran indicated that the new garage would serve as her home office, if approved.

A motion was made by Dyvik, seconded by Olson, to adopt Resolution No. 2016-21 approving the expansion of a non-conforming structure at 235 Lakeview Ave, subject to the following conditions:

- 1. The garage may not exceed 20'3" as measured by the Long Lake Zoning Ordinance.*

2. *The garage is constructed consistent with the building plan set dated 6-22-15 and revised 2-11-16, the survey showing the proposed garage dated 7-21-15, all land use application materials submitted, and all information presented in the staff report dated June 14, 2016.*

And

Approving a conditional use permit (CUP) to allow for an accessory structure exceeding 900 square feet of floor area at 235 Lakeview Ave, subject to the following conditions:

1. *The accessory structure may not be lived in or used as a dwelling unit unless a separate conditional use permit is obtained, as outlined in Section 19, Subd. 6 of the Long Lake Zoning Ordinance.*
2. *Any use of the proposed garage for the purposes of a home occupation shall be consistent with the requirements of a Class I Accessory Home Occupation unless a separate conditional use permit is obtained for a Class II Conditional Use Home Occupation.*
3. *The garage may not exceed 1,664 sq. ft. of floor area.*
4. *The conditional use permit approved by Resolution No. 2015-23 is nullified and is replaced by Resolution No. 2016-21.*

Ayes: all.

Planning Case #2016-04 (City of Long Lake) / Proposed Ordinance Amendment to Chapter 8, Article V: Sign Regulations

Lewis indicated that the Planning Commission began discussing issues related to the city's sign ordinance (Chapter 8, Article V of the Long Lake City Code) at their regular meeting in December of 2015. Staff had previously noted several issues as well that make it difficult to interpret requirements and administer the ordinance effectively. In addition, recent Supreme Court rulings have implications for how cities regulate sign content, which require amendments to the City of Long Lake's ordinance. At the January 12, 2016 Planning Commission meeting, a subcommittee of three Planning Commissioners was formed to thoroughly analyze and recommend changes to the sign ordinance. Two meetings of the subcommittee have taken place since that time. The draft ordinance was reviewed before the entire Planning Commission at their regular meetings on April 12 and May 10, 2016. Highlights of the proposed ordinance changes include the following:

- Removal of any regulations pertaining to sign content that the United States Supreme Court has determined to be a violation of the First Amendment of the US Constitution. Cities may not impose restrictions that are content-based.
- Removal of any language referring to "sign districts". The existing language has conflicting regulations in that it regulates signs by sign district and zoning district. The proposed ordinance would regulate signs entirely by zoning district.
- Freestanding signs would only be allowed in the I-1, I-2, and Institutional districts. Ground signs in all other districts would be required to be monument type signs.
- Signs in a Planned Unit Development (PUD) district are still regulated the same as the B-1, B-2, and VC-1 districts, except as may be otherwise approved through the PUD process. This allows for flexibility from the sign code when a PUD is approved or amended.
- For properties in the B-1, B-2, VC-1 and PUD districts, a provision has been added that allows for a wall sign to be increased to up to 15% of the area of the wall abutting a public right-of-way up to a maximum of 120 sq. ft. This will allow for larger buildings in these districts to have wall signage that is more appropriate for the scale of the building.
- The ordinance would allow for electronic changeable copy signs located in non-residential districts through the issuance of a conditional use permit (CUP). As proposed, electronic changeable copy signs may be text or pictures, may not change more than once every eight

seconds, must change instantaneously and not simulate motion in any way, may not exceed 50% of the permitted sign area, and must be a monument type sign.

- The temporary sign ordinance section has been revised to no longer distinguish between real estate marketing signs, garage sale signs, special event signs and event signs, as this is a content based restriction.
- Temporary signs on trailers have been added as a permitted temporary sign type.

At the April 12, 2016 Planning Commission meeting, the Planning Commission discussed the proposed ordinance changes. Two topics that were discussed at length were electronic changeable copy signs and temporary signs. The Planning Commission directed staff to do some additional research regarding how other cities regulate these two types of signs for the Commission's consideration, and a revised draft of the ordinance was prepared.

After significant discussion about temporary signs and monument/freestanding signs, at their regular meeting on June 14, 2016, the Long Lake Planning Commission voted 4-1 in favor of recommending approval of the proposed ordinance.

Council and staff discussed temporary sign provisions, temporary sign types, as well as enforcement tools for addressing signage violations. Council member Schneider encouraged including a penalty schedule for sign violations in the ordinance. Council members were supportive of the inclusion of a penalty schedule component.

Council member Schneider highlighted an example of a building owner in Wayzata who was denied a sign permit and responded to the denial by installing "XXX bookstore" signage on the building. In the event something similar were to occur in Long Lake, he questioned how the matter could be dealt with.

City Attorney Thames indicated that a city's ability to address signage in that example runs up against some first amendment issues. Any kind of content restrictions would be subject to scrutiny in court. The question to be considered in attempting to address any such signage would be whether it rises to the level of breaching the peace.

Council members supported tabling further action on the draft ordinance to a July meeting to allow the inclusion of a penalty schedule for sign ordinance violations.

Presentation by Ehlers & Associates - Provide for the Sale of G.O. Bonds Series 2016A, Pre-Sale Report of Bonds for Watertown Road Improvement Project

Administrator Weske indicated that the financing plan for the Watertown Road Improvement Project relies upon both internal and external funding sources, including a \$940,000 bond issuance. Formal Council approval is necessary in order to initiate the bond sale process. It was noted that the actual amount of bonds to be issued may be reduced based upon the level of any prepaid special assessments. A pre-sale projection from Ehlers & Associates is attached. Staff would anticipate requesting the Council take action to accept the sale of bonds in July. It is likely the contractor for the project will be requesting first payment in August, and bonding at this time will assure the funds are available to begin payment to the contractor for work completed.

Council member Schneider questioned why the city would bond for the project rather than pay for it outright with fund reserves.

Weske commented on funds that could be utilized; however noted that there are future substantial financial obligations anticipated at this time in relationship to the city's portion of the CSAH 112

improvement project, and other needs including lift station and generator improvements, which may require use of fund reserves.

Council member Schneider expressed concern that the wording of the proposed resolution appears to authorize moving forward with the proposed bond sale, and felt the resolution language should be changed reflecting that the city would be adopting the resolution to consider proposals for the bond sale only.

*A motion was made by Olson to adopt Resolution No. 2016-22, "Providing for **Consideration** of the Sale of 940,000 General Obligation Improvement Bonds Series 2016A", amending language to reflect the city's intent to consider the bond sale only.*

Council member Schneider observed that he personally would feel the city could pay some of the costs directly and not bond for the full amount suggested, and noted he had questions that could perhaps have been addressed by Ehlers & Associates had the representative been available to attend the meeting.

Council member Olson noted that projects and expenses anticipated to arise over the next five year period should be taken into account, and it was not a surprise to her that the city would be issuing bonds for the project.

Motion seconded by Dyvik. Ayes: Dyvik, Chillstrom, and Olson. Nay: Schneider. Motion carried.

Annual Review of Conditional Use Permits Approved by the City

Lewis reported that the Zoning Ordinance requires that all Conditional Use Permits within the various zoning districts be reviewed on an annual basis by the City Council in June. As noted in previous years, some older permits may have been granted by the city that staff is not aware of today. Research into old city files is conducted when Land Use Applications for a particular property are submitted and sometimes it is found that a CUP was granted in the past. As these situations arise, staff adds the permit to the annual review list.

Lewis previously prepared and distributed a map of CUP locations and a list of the known CUPs granted by the city as part of the Council's meeting informational packets.

Staff has reviewed the status and conditions of each CUP granted by the city to determine overall compliance. Most permits appear to be in compliance and there have been no registered complaints with the city. The ordinance allows the city to revoke a CUP if the conditions of the permit are not followed by the property owner. The revocation procedure includes a public hearing before the Planning Commission and action by the City Council.

Lewis provided additional comment highlighting a few specific CUPs included in his review report:

Tonka Auto and Marine at 2305 Daniels Street

A CUP was issued to the former owner of the property in 1987 and the City reissued the permit to ISS (former occupants of the property) in 1987 for a six foot high fence rather than the required eight foot high fence around the property. The conditions added to the CUP are as follows:

"It is subject to annual inspections by the Public Works Director and if the automobiles are not kept in an orderly fashion the owner will be given 30 days to rectify the situation or the CUP will be revoked. The fence must be kept in good repair and child proof."

The current fence consists of chain link with plastic slats installed along the Daniels Street side of

the property and the gate. Three strands of barb wire are located along the top of the fence, presumably for security purposes, and the fence appears to be in good repair. It is unclear from city records if city permission was granted for the three strands of barb wire to former owners of the property. The City Council requested that the barb wire be removed following the annual review of CUPs in June of 2012, 2013 and 2015. The barb wire is still located on the property.

Primo Plates and Pours (Birch's Restaurant) – Outdoor Seating at 1935 West Wayzata Boulevard

A CUP was granted in 2003 for an outdoor seating area at the former Birch's restaurant site. After Birch's moved to its new location at 1310 West Wayzata Boulevard last fall, the space at 1935 West Wayzata Boulevard became occupied by Primo Plates and Pours. A CUP runs with the land so as long as the use does not cease for a year and all conditions are still being met, the use granted by the CUP may continue with a new owner/occupant.

Birch's Restaurant – Outdoor Seating at 1310 West Wayzata Boulevard

The conditional use permit for outdoor seating does not limit the number of patrons that may be on the deck at Birch's on the Lake. The number of people that may be on the deck is limited by Minnesota State Building Code and is determined by the size and number of egresses off of the deck. Although the number of patrons on the deck is a requirement that must be enforced, it is not associated with the conditional use permit. All conditions of the conditional use permit have been or are being met. Conditions for the conditional use permit for outdoor seating are:

1. Additional details regarding the dockage and stairways for the property are submitted and approved by city staff to be consistent with city code;
2. Additional details regarding the landscape plan are submitted regarding the detail of type, number, and locations of trees, especially on the bluff area;
3. A sign plan is submitted and reviewed and meets city code;
4. The hours of operation for the outdoor seating shall be no later than 2:00 am every night.

235 Lakeview Avenue – Accessory Structure Exceeding 900 Sq. Ft.

In June of 2015, the City Council granted permission to expand a non-conforming structure and issued a CUP to allow for the tear down and rebuild of a detached garage on the property. The existing garage is non-conforming in that it does not meet the required 5 foot setback from the rear or side property line. The approval allowed for a two-story detached garage with a floor area of 1,248 sq. ft. and a maximum height of 18 feet. After having final building plans put together, the floor area of the garage is 1,664 sq. ft. and the height is 20 feet and 3 inches. An amendment to the previous approval is being sought at the June 21, 2016 City Council meeting.

1790 Martha Lane – Grading and Filling in a Shoreland Area

A CUP was issued for grading and filling in a shoreland area to allow for the tear down and re-construction of a new single family home on the property. The building permit was issued in the fall of 2015 and the new home was recently completed. A final inspection of the property was completed for compliance with the approved plans and a certificate of occupancy was issued for the home in early June of this year.

280 Heather Lane – Grading and Filling in a Shoreland Area

A CUP was issued for grading and filling in a shoreland area to allow for construction of a new single family home on the property. A building permit application was recently submitted and reviewed by planning and engineering staff. The permit has been forwarded to Metro West for review.

Council and staff briefly discussed the CUPs as reviewed.

A motion was made by Dyvik, seconded by Schneider, to approve the annual review of all active Conditional Use Permits. Ayes: all.

Review Grant Agreement Terms – Grant for Nelson Lakeside Park Playground Equipment Purchase, Business District Initiative Grant

Council member Schneider stated that he was now in receipt of the following grants:

Agreement No. A1652160: The agreement from Hennepin County through the Minnesota Youth Sports Program would award a \$25,000 grant to be used for the Nelson Lakeside Park playground equipment purchase. The City would need to send the County a copy of the invoice for the reimbursement.

Agreement No. A164907: This agreement from Hennepin County is for a Business District Initiative Grant in the amount of \$46,000 to be used for business recruitment, marketing, wayfunding, planning and technical assistance, small business assistance, building façade improvements, street furniture; ultimately to create a comprehensive identity for the business district and “to survive and thrive” through the duration of the County Road 112 project.

Council member Schneider indicated all that is needed is a resolution of the Council to accept and approve the grants.

Attorney Thames noted that as a resolution had not been prepared for the meeting packet and the Council’s consideration, the Council may want to table action on approval of the grants to the next meeting.

Council members agreed to table action on the grant agreements to allow preparation of the appropriate resolutions.

Birch’s on the Lake Escrow Amount to be Distributed

Weske reported that in April 2015, Birch’s on the Lake owners supplied the City of Long Lake with \$189,795 to be held in an escrow account for SAC charges, landscaping and irrigation, and retainage to assure conditions of their planning approvals were met.

Since there were a few important outstanding items requiring resolution, it was agreed to by the Long Lake City Attorney and Birch’s owners that the City can continue to retain escrow funds until items were completed allowing the restaurant to open and begin operation. In November 2015, most of the escrow was distributed, with \$30,000 retained until completion of the wear course and striping of the parking lot consistent with parking variance conditions and planning approval.

At this time, staff is recommending disbursement of \$26,819.95 to Birch’s owners, utilizing the remainder to pay for city attorney and consultant fees. This would represent complete distribution of the escrow.

Council member Schneider added that the deck occupancy issue was recently clarified. Loren Kohnen of Metro West Inspections reviewed the deck and determined that adequate egress was available to allow up to 114 on the deck, determining that a second egress is present.

Lewis noted that they have met the conditions of their landscaping variance as approved at this time.

A motion was made by Schneider, seconded by Dyvik, to approve distribution of \$26,819.95 to Birch’s on the Lake and retain \$3,180.05 for costs of attorney and consulting fees. Ayes: all.

OTHER BUSINESS

Lake Association Meeting – Council member Dyvik noted that a meeting will be held for the residents interested in forming a Long Lake lake association on June 22 at 4:30 pm in the Minnehaha Creek Watershed District offices, 15320 Minnetonka Boulevard.

Accessory Buildings in R-2 District – Council member Dyvik sought Council member interest in considering amending Zoning Code to change where accessory buildings are allowed to be located on a property in the R-2 Lakeshore Single Family Residential District. Current code pertaining to accessory structures states that accessory structures cannot be located in front of the front line of the building on a property. The narrow configuration of some of the lakeshore lots would only permit some lots looking to build accessory structures to build in front of the front line of the building. This impacts both his lot personally and others situated along the lakeshore. Mayor Chillstrom noted that some other lake communities with lakeshore residences consider the lake side to be the “front” for the purposes of planning and zoning code. Council and staff continued to discuss the matter and directed staff to raise the issue at the next Planning Commission meeting for their feedback.

MCWD Advisory Group Meeting – Council member Schneider recently attended the final MCWD advisory group meeting in preparation for the MCWD’s comprehensive plan update, which will likely be ready sometime early the next year. The MCWD’s intent will be to provide a number of best practices that all communities can collectively use to ultimately make a difference. It is anticipated that the MCWD will come and present their updated plan to the Council at a future meeting.

Utility Poles in County Road 112 Project Area – Council member Olson noted that Union Cemetery had recently received a notice from Hennepin County requesting a construction easement for the County Road 112 project, and she realized that they will be clear-cutting more brush and trees than originally anticipated. She added that it appears the utility poles in the area may become glaringly obvious and suggested the Council may want to revisit the idea of undergrounding utilities in the area. Council members were in support of seeking additional information from the County on this issue.

Birch’s Use of Cemetery Parking – Council member Olson reported that Birch’s has reached out to the Union Cemetery Board to pursue the ability to use a portion of the cemetery parking for restaurant valet parking. The Board has reservations but is interested in entering into a six-month trial of an arrangement, at a cost to Birch’s of \$400 per month. If the Board approves the agreement to try and work with Birch’s, clauses would be included to protect the cemetery should the arrangement be unsuccessful. She added that at the time Birch’s applied for their parking variance, one of the criteria for variance issuance is finding that granting of a variance will not alter the essential character of the neighborhood. Between the cemetery and the residents of the surrounding neighborhoods, she believes it would be said the variance did alter the character of the neighborhood.

City Wide Garage Sale Days – City Clerk Moeller stated that to date, she has two residences signed up to participate in the City Wide Garage Sale Days event in July.

Construction on Highway 12 Bypass – Council member Schneider heard that construction on the jersey wall barrier along the Highway 12 bypass may be beginning in September, and with that, there may be closures of the roadway for the work.

Corn Days Events – Mayor Chillstrom indicated that the Church of St George will be holding the annual Corn Days festival on August 13 and 14. The Chamber of Commerce Corn Days Parade will have a different route for this year's event due to construction activities that will be underway on Watertown Road.

ADJOURN

Hearing no objection, Mayor Chillstrom adjourned the meeting by general consent at 7:36 pm.

Respectfully submitted,

Jeanette Moeller
City Clerk