



**MINUTES
CITY COUNCIL MEETING
June 20, 2017**

CALL TO ORDER

The meeting was called to order at 6:30 pm.

Present: Mayor: Marty Schneider; Council: Tom Skjaret, Jahn Dyvik, and Michelle Jerde

Staff Present: City Administrator: Scott Weske; Public Works Director: Jason Goehring; Planning Consultant: Addison Lewis; City Attorney: John Thames; and City Clerk: Jeanette Moeller

Absent: None

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS - LONG LAKE NEWS, MEETING REVIEW AND UPDATES

Mayor Schneider offered the following comments and updates:

Mayor Schneider extended sincere gratitude to the Wayzata Police Department, Hennepin County Sheriff's Office and Minnesota State Patrol for their efforts in locating a gentleman who had been missing from the Long Lake Assisted Living facility, without anyone having awareness of where he may have been. Wayzata Police coordinated a very detailed and thorough search of the community before the missing man was found safe in downtown Minneapolis, with search efforts aided by Hennepin County Sheriff's Water Patrol unit in search ponds, and State Patrol helicopters assisting in the search. He also thanked staff for getting information out to the community about the missing individual, and thanked those community members who were out and about offering their assistance as well.

Mayor Schneider expressed his appreciation to members of the Chamber of Commerce for their work on the "Shop Long Lake" flier recently distributed. He also particularly recognized the work of former Chamber of Commerce President Christy Erickson, who had resigned from her position with the Chamber of Commerce a little over a week ago.

APPROVE AGENDA

A motion was made by Skjaret, seconded by Jerde, to approve the Agenda as presented.

Council member Dyvik reference Agenda Item No. 10 and questioned whether the prevailing candidate would be immediately sworn into office upon completion of voting to appoint the new City Council member.

Moeller replied that a formal Oath of Office for the candidate would be prepared for the new Council member to be sworn in at the next regular City Council meeting. This also would allow the appointed candidate to have opportunity to have family in attendance to witness them taking their oath, should they wish to do so.

Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of June 6, 2017 City Council Work Session
- B. Approve Minutes of June 6, 2017 City Council Meeting
- C. Receive Minutes of May 16, 2017 Economic Development Authority Meeting
- D. Receive Unofficial Draft Minutes of June 13, 2017 Planning Commission Meeting
- E. Approve Vendor Claims and Payroll
- F. Adopt Resolution No. 2017-28 Authorizing Execution of a Joint Cooperation Agreement for Participation in the Urban Hennepin County Community Development Block Grant Program
- G. Authorize Pay Request No. 6 to Valley Paving, Inc. for Work Performed in Conjunction with the Watertown Road Improvements Project

A motion was made by Jerde, seconded by Dyvik, to approve the Consent Agenda as presented.

Regarding Consent Agenda Item G, Mayor Schneider asked Public Works Director Goehring to affirm he is comfortable with the project punch list having been completed to his satisfaction.

Goehring confirmed that he is indeed comfortable with the project status. The curb and asphalt looks marvelous. He has some concern about turf establishment; however, intends to utilize the project warranty period to plan some routine maintenance until turf is established to standard. He acknowledged that the project area is still a little dirty and some sweeping work may be done in-house to clean up in the area. He also confirmed that some sand tubes in place for erosion control will remain in place until turf areas are more fully established.

Ayes: all.

OPEN CORRESPONDENCE

Dan MacDonald, 335 Russell Lane - Mr. MacDonald commented that he understands Hennepin County is not intending to have more public meetings regarding the design of the County Road 112 project, and urged the Council to be vigilant in their oversight of the project. He noted that if the speed limit at the east end of the roadway is indeed reduced, the need for a reconfiguration of the Old Long Lake Road intersection would be diminished. He spoke in support of the concerned neighbors who would be impacted by the proposed intersection reconfiguration and driveway extension.

BUSINESS ITEMS

Planning Case #2017-02 / Request for a Variance From the Side Yard Setback to Allow for a Home Addition at 28 Creekside Drive

Planning Consultant Lewis reported that the applicant is seeking to construct an addition to the existing single family home at 28 Creekside Drive, which is located in the R-1A Zoning District. The required setback for side yards in the R-1A District is 10 feet. The applicant wishes to construct a four-season porch off of the master bedroom on the south side of the house that would be located five feet, four inches from the south side property line. Therefore, a four foot, eight inch variance is being requested.

The applicant states that there is already a sliding glass door off the master bedroom that previously went out to a deck. The applicant states that the deck was removed several years ago because it was old, unsafe, and unused. Currently the sliding glass door opens to nothing and the applicant

wishes to make better use of this space on the property by constructing something that can be used year-round.

The subject property is relatively large compared to most other lots in the R-1A District; however, there is a large wetland located to the north and east of the house. As a result, the house is situated on the lot to maximize the distance from the wetland and is located much closer to the south side property line than to the north. The presence of the wetland likely influenced the location of the house on the lot at the time the property was developed. As a result, the home is located much closer to the south side property line than to the north, which limits the opportunity for expansion on the south side of the home. The applicant is looking to make reasonable use of the property by constructing a four-season porch, which may be used year-round, to replace a deck that the applicant states went unused. If the City Council finds the request to be reasonable, it is unlikely that approval of the variance would result in a detriment to neighboring property, as the subject home and neighboring home are offset and there is a significant amount of vegetation located to screen the two homes from each other. Lewis indicated staff finds required variance criteria to be met and is recommending approval of the request.

At their regular meeting on June 13, 2017, the Planning Commission voted to recommend approval of the requested variance.

Lewis clarified that the State Statutes governing variance issues changed a few years back from focusing on "undue hardship" to "meeting practical difficulties"; and that although the Council currently is only a four-member body, a 4/5 vote would still be required for the Council to approve the variance.

A motion was made by Skjaret, seconded by Dyvik, to adopt Resolution No. 2017-24 approving the requested side yard setback variance. Ayes: all.

Presentation of Bond Sales Results and Resolution Providing for the Issuance and Sale of General Obligation Bonds, Series 2017A

Jason Aarsvold, a representative of Ehlers & Associates, recalled that in May the City Council had taken action authorizing Ehlers & Associates to proceed with a bond sale for the purpose of financing the City's portion of the County Road 112 reconstruction project. Aarsvold reported that the bond sale had been held earlier in the morning on June 20; and presented information regarding the City's bond rating and the results of the competitive bond sale to the Council.

Mayor Schneider stated that he would be abstaining from voting on the proposed bond sale action, as there is slight potential the firm he is employed by may have some cross-selling agreements with the prevailing bond sale bidder.

A motion was made by Skjaret, seconded by Jerde, to adopt Resolution No. 2017-27 providing for the issuance and sale of \$2,000,000 General Obligation Bonds, Series 2017A. Ayes: Skjaret, Dyvik, Jerde. Abstained: Schneider. Motion carried.

Request to Reconsider Application for Therapeutic Massage Enterprise License – Lucky Massage, 432 Mill Street; Reconsider Applications for Massage Therapist Licenses – SanBei Lin and Shengying Wu of Lucky Massage, 432 Mill Street

City Clerk Moeller indicated that Long Lake City Code requires that massage services businesses and practitioners be licensed in order to offer massage services. At the City Council's May 16, 2017 meeting, the Council considered applications for massage services licensure by Lucky Massage of 432 Mill Street, and by SanBei Lin and Shengying Wu to provide massage services at Lucky

Massage. The applicants' interpreter, Mr. Tony Chang, is present to answer any questions the Council may have regarding their applications.

The applications as submitted to staff were complete; the individual applicants were able to meet educational requirements for licensure; and the business premises at 432 Mill Street was found to have met health, sanitation and facility standards. However, the findings of the background investigation completed by the Police Department noted there was concern that the applicants may not appear to meet the standard that requires applicants to be of "good moral character or repute". Moeller referred to City Code, Chapter 10, Article VI, Sec. 10-516, persons ineligible for license, subdivisions (a)(5) and (b)(5).

Council held extensive deliberation on the license requests during the May 16 meeting. The applicants were represented by their interpreter, Mr. Tony Chang, who was given opportunity to speak on their behalf. A motion to deny the license requests failed for lack of a second. A follow up motion made to permit the business to re-open on a temporary basis until the fully-seated Council was able to take action on the license requests resulted in a tie vote and ultimately failed. With the tie vote unable to be broken, staff received direction to inform the applicants of the outcome of the meeting, and to advise them that their applications could be reviewed again following seating of the fifth Council member at their request.

Following the Council meeting, staff met and spoke with the property owner of 432 Mill Street, Peggy Mueller, and with the applicants' interpreter, Mr. Chang. Both were informed of the Council discussion at the May 16 meeting and voting record. Speaking on behalf of the applicants, they informed staff the applicants wished to pursue the ability to re-open their business as soon as possible. They were advised that the applicants could make a request for their licenses to be reviewed ahead of the appointment of the fifth Council member; however, were encouraged to meet with the Police Chief to discuss his concerns as expressed in his Memorandum dated May 11, 2017 regarding the Lucky Massage Background Investigation.

The applicants, along with their interpreter Mr. Chang, did meet with Police Chief Risvold on June 8. Moeller advised the Council that if they had not yet done so, she would strongly encourage the Council to review the Memorandum from Chief Risvold dated June 15, 2017 regarding the Lucky Massage Background Investigation Follow-up. Based on the details described in his May 11, 2017 memo, and the outcome of his interview conducted on June 8, Chief Risvold recommends denial of the applications for massage services licensure by Lucky Massage. Both memos were provided to City Council members in their meeting information packets.

On Wednesday, June 14, the applicants submitted a written request seeking a 60-day temporary massage license. Their request is attached for the Council's review. City Code does not allow for a temporary license; however, the Council may consider a "grace period" due to extenuating circumstances pending seating of the fifth Council member, if it is the will of the Council to do so.

At this time, staff is recommending the City Council consider the information presented and take action to approve or deny the licenses requested. Moeller provided an analysis of City Council possible options for action:

OPTION 1

If the Council finds that Lucky Massage and applicants Sanbei Lin and Shengying (Vicky) Wu have met requirements for licensure and are eligible to be licensed, the City Council may:

Motion to approve issuance of a Therapeutic Massage Enterprise License to Lucky Massage located at 432 Mill Street, owned by Sanbei Lin; issuance of a Massage Therapist License to Sanbei Lin to

allow the provision of massage services at Lucky Massage; and issuance of a Massage Therapist License to Shengying (Vicky) Wu to allow the provision of massage services at Lucky Massage.

OPTION 2

The Police Chief recommends denial of the applications for reasons detailed in his Memorandum dated June 15, 2017, and his previous Memorandum dated May 11, 2017. If the Council finds that the individual responsible for the operation of the Lucky Massage business is ineligible for license and is not of good repute as required by City Code, Sec. 10-516; and that both individual massage therapist applicants are ineligible for license and are not of good repute as required by City Code, Sec. 10-516, the City Council may:

Motion to deny issuance of a Therapeutic Massage Enterprise License to Lucky Massage located at 432 Mill Street, owned by Sanbei Lin; issuance of a Massage Therapist License to Sanbei Lin to allow the provision of massage services at Lucky Massage; and issuance of a Massage Therapist License to Shengying (Vicky) Wu to allow the provision of massage services at Lucky Massage.

OPTION 3

If the Council finds that due to extenuating circumstances created by the resignation of a Council member, a "grace period" to allow Lucky Massage to open and operate temporarily until license applications in conformance with the licensing requirements stated in City Code, Chapter 10 may be actioned upon by a fully-seated City Council, the City Council may:

Motion to permit Lucky Massage and individuals Sanbei Lin and Shengying (Vicky) Wu to temporarily provide massage services without a license under a "grace period" expiring upon conclusion of the July 5, 2017 City Council meeting, at which meeting action will be taken to either approve or deny applications for license.

Mayor Schneider advised that with regard to the applications, should the Council once again reach a tie vote, he does not have the ability to break a tie in the event that would occur. He also mentioned that on June 5, at the request of property owner Peggy Mueller, he had met with Ms. Mueller and Mr. Chang at City Hall along with staff. The meeting was largely a recap of what had occurred during the Council's May 16 meeting. He encouraged them, representing the applicants, to approach and speak with the Wayzata Police because from his own observation, he was placing a lot of weight on the Police Chief's comments in his own decision making process. He noted that as a Council, judgment is not being passed on individuals, but rather the Council is making decisions based on the application process.

Council member Skjaret reflected that since the Council's last review of the applications, he had spent time researching the matter. While the business and applicants meet the physical requirements established in ordinance, the biggest concern relates to Sec. 10-516. He does not feel he would make a decision based on moral character of the applicants; however, the provision states "good moral character OR repute", and his decision would focus on the repute issue. In the past, the business has not operated with a reputation meeting community standards. He has changed his previous position of neutrality and would now be in favor of denying the applications.

Council member Jerde noted that while she had previously been in a neutral position as well, she was now in a position to make her decision.

A motion was made by Dyvik, seconded by Jerde, to deny issuance of a Therapeutic Massage Enterprise License to Lucky Massage located at 432 Mill Street, owned by Sanbei Lin; issuance of a Massage Therapist License to Sanbei Lin to allow the provision of massage services at Lucky

Massage; and issuance of a Massage Therapist License to Shengying (Vicky) Wu to allow the provision of massage services at Lucky Massage.

City Attorney Thames advised that a motion taking action to deny should reference findings of evidence and applicable ordinance provisions.

Council member Dyvik read aloud a statement he had prepared regarding his position to vote for denial of the applications, emphasizing that Lucky Massage has established a sexual reputation in their business operations, and he is deeply concerned about the moral character of the business' customer base, and cannot support such a business operating in proximity to where his children live and play.

Council member Dyvik restated his motion as follows:

A motion was made by Dyvik, seconded by Jerde, to deny issuance of a Therapeutic Massage Enterprise License to Lucky Massage located at 432 Mill Street, owned by Sanbei Lin; issuance of a Massage Therapist License to Sanbei Lin to allow the provision of massage services at Lucky Massage; and issuance of a Massage Therapist License to Shengying (Vicky) Wu to allow the provision of massage services at Lucky Massage; based on the findings from the Wayzata Police memorandums which violate City Code Sec. 10-516, requiring responsible individuals for a business and individuals for therapist licensing to be of good moral character or repute. Ayes: all.

Appointment of City Council Member to Fill Unexpired Term

Moeller stated that at the May 16, 2017 City Council meeting, the City Council adopted a resolution declaring that a vacancy exists on the Council for a term expiring December 31, 2018. This vacancy was created by the resignation of Council member Kurt Kaminski, also accepted by the Council during the May 16 meeting. A Press Release dated May 22, 2017 announced that applications would be accepted through June 13, 2017 from eligible Long Lake residents interested in filling the City Council position opening to serve the remainder of the unexpired term.

Candidates who applied for consideration were Tim Hultmann and Charlie Miner. At the end of the application period, both candidates were contacted and interviews scheduled to take place during the June 20, 2017 City Council Work Session meeting. Application packets for each candidate were distributed to City Council members as part of the June 20 Work Session meeting informational packet. With interviews completed at the Work Session, staff recommends the Council consider making the appointment to fill the City Council unexpired term. Staff has prepared ballots to be used by the City Council during the meeting to facilitate the candidate selection process. Once the candidate selection voting process has reached a conclusion, appointment of the City Council member candidate selected by simple majority vote should be formalized through the adoption of a resolution. A resolution has been prepared by staff for this purpose.

Please note that regarding City Council member vacancies, in the event of a tie vote where no majority consensus can be reached, state law provides that the Mayor may make the appointment.

Staff distributed candidate selection ballots to Mayor and Council. Selection ballots were placed in an envelope and given to Moeller and Administrator Weske for review and tabulation. Tabulation of selection ballots resulting in three votes being cast for the appointment of Tim Hultmann, with one vote cast for appointment of Charlie Miner.

A motion was made by Jerde, seconded by Skjaret, to adopt Resolution No. 2017-25 appointing Tim Hultmann to fill the vacant position of City Council member serving the remainder of a term effective through December 31, 2018. Ayes: all.

Mayor Schneider expressed his appreciation to both candidates for their willingness to go through the application process, and offered encouragement to Mr. Miner in his role as a new Planning Commission member.

Motion to Reschedule Tuesday, July 4, 2017 City Council Meeting to Wednesday, July 5, 2017 (Independence Day); Motion to Reschedule Tuesday, August 1, 2017 City Council Meeting to Wednesday, August 2, 2017 (Night to Unite)

Moeller indicated that staff would recommend the City Council consider rescheduling the July 4, 2017 meeting due to the Independence Day holiday; and rescheduling the August 1, 2017 meeting to allow City Council members to participate in Night to Unite activities.

A motion was made by Skjaret, seconded by Jerde, to reschedule the Tuesday, July 4, 2017 City Council meeting to Wednesday, July 5, 2017. Ayes: all.

A motion was made by Skjaret, seconded by Dyvik, to reschedule the Tuesday, August 1, 2017 City Council meeting to Wednesday, August 2, 2017. Ayes: all.

Special Event Permit Request for Corn Days 2017

Moeller reported that annually the Church of St. George holds a two-day summer festival located on their property at 133 Brown Road N. This year's event – the 47th annual Corn Days celebration -- is scheduled to be held on Saturday and Sunday, August 12 and 13, 2017. The festival will offer a wide variety of family-friendly activities including pony rides, a petting zoo, inflatables, children's games; live entertainment; food and beverages; bingo; and exhibit / craft vendor booths.

Staff recommends approval of a Special Event Permit for the Corn Days 2017 summer festival with conditions as specified in the proposed permit; approval of a Noise Variance Permit to allow the use of sound amplification equipment for live entertainment; approval of a temporary liquor license; and approval of a permit to conduct gambling activities including bingo and raffle games.

Moeller complimented Sara Dore for her work in submitting the application on behalf of the Church of St. George, noting that Ms. Dore consistently prepares a very thorough and organized application each year.

A motion was made by Skjaret, seconded by Dyvik, to:

- *Adopt Resolution No. 2017-26 approving issuance of Special Event Permit #S2017-04 for the Corn Days 2017 festival to be held August 12 and 13, 2017;*
- *Approve the issuance of a Noise Variance Permit authorizing the use of sound amplification equipment for live entertainment during the 2017 Corn Days summer festival;*
- *Approve issuance of a 1 to 4 Day Temporary On Sale Liquor License for the Church of St. George to allow the sale of alcoholic beverages during Corn Days 2017; and*
- *Approve an Application for Exempt Permit for the Church of St. George to conduct gambling activities including bingo and raffles during the 2017 Corn Days event.*

Ayes: all.

Approval of Nelson Lakeside Park Restroom Enclosure Rebuild

Goehring indicated that at the May 23, 2017 Park Board meeting, the Board unanimously agreed that the existing restroom enclosure at Nelson Lakeside Park was due for replacement. In its current state, the restrooms offer little privacy and takes away from the aesthetics of the park for both park visitors and boaters. The Board agreed that "Design B" would offer the most privacy as well as be the safest option for children who are using the playground.

The project would consist of first moving the current restrooms to a temporary location in the park during construction. The existing wooden fence, concrete pad, curb, and landscaping would be removed. A series of 6"x6" wooden posts would be set into the ground to form the perimeter of the new enclosure. A new concrete pad, sidewalk, and curb would then be poured. A privacy fence would be built onto the 6"x6" posts in a design pattern similar to many cedar fences on residential properties. A gate system would be built into the east side of the enclosure to move the restrooms in and out of the enclosure during spring and fall.

Goehring reviewed cost estimates for the work, resulting in a total estimated project cost of \$5,200; and responded to Council member questions regarding the amount of materials needed, project design and location, temporary restroom arrangements to be available while the project is underway, and what portion of the project would be completed by Public Works staff. Goehring confirmed the project start could be delayed until after the SummerFest event currently planned for July 22.

A motion as made by Dyvik, seconded by Jerde, to approve the demolition of the existing restroom enclosure at Nelson Lakeside Park and to rebuild the restroom enclosure following "Design B" as approved by the Park Board. Ayes: all.

SummerFest Event Planning Update

Mayor Schneider confirmed that although the President of the Chamber of Commerce had resigned, SummerFest planning is still underway with support of members of the business community, the Chamber of Commerce, and the Orono Lions Club. Event plans thus far include incorporating the City Wide Garage Sale Days for residents and businesses; the annual Orono Lions Club carp fishing contest; food and beverages; a car show; musical entertainment including a swing band, an Orono High School rock band, and locally popular country western band Stampede; bed races sponsored by Gear West; and possibly a fireworks display.

Moeller noted that what is yet unknown is who will be the event organizer to make an application for the Special Event Permit, and welcomed working with either the Mayor or other event applicant to prepare the application.

Mayor Schneider added the Hennepin County is aware of the SummerFest event dates in relationship to County Road 112 project work. He also commented that the SummerFest event would in no way take away from local organizational interest in working with the Fire Department for a fall event as well, should the Fire Department pursue holding one this year.

County Road 112 / Wayzata Boulevard W Reconstruction Project and Public Works Updates

Goehring offered the following updates relative to the County Road 112 reconstruction project, and to other Public Works activities:

- Last week, project crews successfully completed installation of the culvert on the east side of town and large rip rap boulders are now being stored on site in that area. This week, County

Road 112 is closed between Brown Road and Lake Street to allow for installation of a box culvert under the roadway. Watermain boring under the creek is scheduled to take place the following week. A lot of curbing has been installed in the project area, and staff is looking forward to seeing asphalt being laid down soon. For the immediate future, the main focus for staff will be monitoring the box culvert installation at the closure site, and a little sanitary sewer work remaining. Goehring affirmed that generally speaking, he would say that County Road 112 project work is on schedule, and that the closure for the box culvert is the final full closure scheduled as of this time. Council member Dyvik questioned whether it is anticipated the contractor will be conducting pavement crushing in road right of way along the lakeshore. Goehring responded that from the appearance of the staging, he would believe that will be the case. After further discussion, Goehring stated he could approach the contractor regarding employing dust control measures when crushing in proximity to the lake.

- Goehring indicated that a contractor is slated to come out and remove geese from Nelson Lakeside Park during the week ahead. He commented on his observations of goose movement in the park, and updated the Council on ongoing beach dragging and maintenance cleanup efforts. Mayor Schneider mentioned that the Long Lake Waters Association board has indicated a willingness to volunteer and assist in goose poop removal on weekends, and he had given Goehring's contact information to the LLWA member he'd spoken with.

OTHER BUSINESS

Fire Advisory Board Meeting – Council member Skjaret will be out of town and unable to attend the June 28 Fire Advisory Board meeting. Council member Dyvik confirmed he would be attending.

City Council Candidates – Council member Jerde welcomed Mr. Hultmann's return to the City Council; and expressed her appreciation to Charlie Miner for his participation in the Planning Commission. Mayor Schneider took a moment to recognize former Council member Brian Carpenter for his attendance at the meeting as an audience member.

Birch's Parking on Glenmoor Lane – Mayor Schneider had received a call from a resident who stated their concern about Glenmoor Lane being utilized by Birch's on the Lake customers for overflow parking. The resident has now posted signage along his property to prevent parking. He commented that in the past, Birch's had worked with this same resident to replace sod where the resident indicated his turf had been damaged by on street parking for the business. Mayor Schneider stated he wanted to advise the Council of the concern received in case a future request is made before the Council.

ADJOURN

A motion was made by Jerde, seconded by Skjaret, to adjourn the meeting. Ayes: all. Mayor Schneider adjourned the meeting at 7:54 pm.

Respectfully submitted,

Jeanette Moeller
City Clerk