

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL OF THE CITY OF NORTH BRANCH IN THE COUNTY OF CHISAGO AND IN THE STATE OF MINNESOTA

REGULAR SESSION

April 28, 2014

CALL TO ORDER: The North Branch City Council met in regular session and Mayor Lindquist called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL: Councilmembers present were Kathy Blomquist, Theresa Furman, Ronald Lindquist, Joyce Borchardt, and Trent Jensen. Staff members present were City Administrator Konrad, Finance Director Hill, Public Works Director Williams and the City Attorney Squires.

CONSENT AGENDA:

- Claims
- Minutes – March 24, 2014 Work Session
- Minutes – April 3, 2014 Work Session
- Resolution 027-04-28-14– Midsummer Permits – American Legion
- Remove from Probation – Public Works Maintenance Goodwin

Motion by Furman, seconded by Jensen to approve Consent Agenda as presented. All voted AYE. Motion carried.

D1 2013 Audit Acceptance

Doug Host the City Auditor from Clifton Larsen Allen provided an overview of the 2013 Audit. They provided a clean audit opinion. He reviewed information on the various funds and noted findings of areas where improvements can be made. Furman noted that there was an error on the Water and Light summary and asked the auditor to review with Hill and make an amendment for next year. Host agreed. Borchardt inquired about Claims and Judgments would be called out. Host informed her that he couldn't answer questions about that section because that came from the Water and Light audit. Borchardt noted that it states that the General Manager and Office Manager would be compensated 12 months wages as severance if employment is terminated for any reason. Host indicated that the staff was a pleasure to work with and the audit went well.

PUBLIC HEARINGS:

NONE

COMMITTEE/COMMISSIONS:

6A PLANNING COMMISSION

A1 Norlite CUP

Planner Roberts outlined the requested Conditional Use Permit submitted by Norlite to allow for expanded outdoor storage onto the

adjacent property. They will be purchasing a portion of the adjacent lot to expand their business.

Chair of the Planning Commission vonLange indicated that the Planning Commission met and discussed the conditions and the Planning Commission felt that conditions 3 (planting of trees) and 4 (describing storage requirement) were not necessary. He then explained the reasons the Planning Commission recommendation. vonLange indicated that condition 6 (stating that the CUP applies to the 0.82 acres east of 6651 396th Ct.) is not necessary because the entire property will be fenced. vonLange asked why the Planning Commission meets and spends time only to have its work circumvented by the Planner. Borchardt asked which of the options was the option that the applicant believed was coming forward to Council. vonLange indicated it was the one without the two conditions and without the condition regarding fencing. Konrad stated that the original CUP does not include the .82 so it needs to be amended to include that .82 acres. vonLange indicated the .82 acres is not the point of contention it is the first two conditions he mentioned. Furman agrees with the trees but she is wondering if the ordinance says that they have to plant them. Roberts indicated it is discretionary. Furman indicated she would be fine with taking them out. Furman asked how an ordinance change in the future could affect this CUP. Roberts indicated that he left condition 4 in for the future so that expectations are clear. City Attorney Squires indicated that there is a valid reason why the Planner has presented the conditions as they are. Blomquist agreed with keeping item 4 for the future but would agree to removal of condition 3. vonLange indicated that the term "junk" can be hard to define because scrap metal is valuable to this business as it can be reused but may look like junk to others.

Motion by Borchardt, seconded by Jensen, to approve Resolution No. 022-04-28-14, "A RESOLUTION APPROVING CONDITIONAL USE PERMIT FOR THE EXPANSION OF OUTDOOR STORAGE FOR NORLITE STEEL AT 6551 396TH STREET" as recommended by the Planning and Zoning Commission removing Conditions 3 and 4." Members voted: Ayes 4, Nays – 1(Blomquist). Motion carried.

A2 Strom Cartway Petition – Escrow Amount

Planner Roberts explained that the City is requesting an escrow for this process from the applicant. Staff is recommending an escrow of \$15,200 to cover engineering and attorney fees.

Motion by Jensen, seconded by Furman, to approve Resolution 023-04-28-14, "A RESOLUTION APPROVING AN ESCROW

DEPOSIT OF \$15,200 FROM THE NANCY NORDAL STROM LIVING TRUST TO COVER THE CITY'S COSTS FOR REVIEWING AND ANALYZING A CARTWAY PETITION AT 4991 412TH STREET."

Furman asked if anyone was present for the application. There was no one present. Furman asked if there is a timeframe for this and whether it would be forever. Furman asked if there can be a time period on the resolution. City Attorney Squires suggested that no time frame be added but, if the applicant does not submit within a reasonable timeframe the City can refuse the petition. Staff will keep an eye on this.

Borchardt asked about placement of the cartway and whether it is only going to be on the proposal as submitted or other options. Planner Roberts indicated that it would be only on the proposal. City Attorney Squires indicated that the City has the option to select a different route after discussion or consultation with the property owner.

Lindquist asked what happens if the person who gets the cartway wants to subdivide after this because there are minimum standards for roads. Planner Roberts indicated that this is just access for one property but if they want to subdivide then that would not be allowed by Code. Borchardt commented that there is another little piece of property that might want to do this too. Jensen indicated the parcel would need to be 5 acres to enact the cartway petition.

A resident asked about conflict of interest in this as Jensen mentioned he owns property near there. There is no concern.

After discussion, All voted AYE. Motion carried.

A3 Planning Commission Membership

Planner Roberts explained that the Planning Commission Chair has asked the Council consider changing the code to allow residents, property owners and business owners to be on the Planning Commission.

Jensen would be concerned about having non-residents on the Planning Commission. Blomquist agreed with Jensen and said she would be worried about who represents the residents if they do not live in town.

vonLange indicated that this idea came up when he was discussing this with a business owner from out of town. His idea developed from the discussion and he thought it would be a way to increase

the appeal of North Branch as a place to do business and this would be a way to utilize valuable information and resources to the City.

Konrad asked for direction on whether to draft an Ordinance amendment or not. Council directed staff to leave it alone.

6B ECONOMIC DEVELOPMENT AUTHORITY NONE

6C PARK COMMISSION NONE

6D WATER AND LIGHT COMMISSION

D1 Mailing Machine – Funding Request

The Water and Light Commission recommended the Council revisit sharing the cost of a new mailing machine. Borchardt indicated that Water & Light has been authorizing raises higher than the City and making large purchase and now they are asking for help with the cost of this machine. She sees this as a donation and that is money not available for other items in the City. She finds it interesting that with shared services why this would come forward. Blomquist said that there is a lot of redundancy on the City's side so the list is not a good list, in her opinion. Blomquist said that they pay for all of the street lights and water at the parks. Lindquist clarified that the users pay for it.

Lindquist asked if the motion was made that the City would make this contribution.

Blomquist indicated that the sewer, sanitary sewer, etc. can come from the sewer funds as they could absorb that. She thinks it is appropriate that the storm water pay for half of the mailing machine and she thinks that all the other comments are getting off the subject. If the City was doing the mailings the City would have to buy the machine.

Furman said she is not in favor of it.

Motion by Jensen, seconded by Blomquist to approve the cost of \$1,500 with the funds coming out of the sewer fund. Members voted: Ayes – 3, Nays – 2(Borchardt/Furman). Motion carried.

D2 Minutes INFO

STAFF REPORTS:

7A ENGINEERING/PUBLIC WORKS

A1 Crack Sealing Project

Williams recommended moving forward with the quote from Seal Tech for the 2014 crack sealing project

Motion by Furman, seconded by Blomquist to approve Resolution 028-04-28-14, "A RESOLUTION ACCEPTIN QUOTES SUBMITTED FOR CRACK SEALING AND AWARING CONTRACT THEREOF." All voted AYE. Motion carried.

A2 Chloride Quotes

Williams recommend Tri City Paving for the Chloride Quotes.

Motion by Borchardt, seconded by Jensen to approve Resolution 029-04-28-14, "A RESOLUTION ACCEPTING THE QUOTES SUBMITTED FOR CHLORIDE/DUST CONTROL AND AWARING CONTRACT THEREOF."

Furman asked about 410th Street because it is going to be paved this summer. She asked if that can be removed. Williams indicated that there will not be a full application on that road. Since there are 730 cars per day he will do a fog application to get through until and if the street is paved.

After discussion, All voted AYE. Motion carried.

A3 AUAR Update

Konrad reported that Andi Moffit from WSB was present to provide an update on the AUAR.

Laurie Warner, 40589 Golden Avenue, indicated she is on the border of the potential sand fracking project and her concern is whether there will be an environmental impact study because they are concerned about the land and the traffic.

Moffit indicated that the City would need to evaluate the uses and determine if the assumptions made are adequate.

Motion by Borchardt, seconded by Jensen, to approve Resolution 024-04-28-14, "A RESOLUTION ADOPTING THE ESSBY ALTERNATIVE AREAWIDE REVIEW (AUAR) 2014 UPDATE." All voted AYE.

7B ADMINISTRATION

B1 Oak Inn Liquor License Amendment

Konrad noted the Oak Inn has proposed to add a patio and fence in the yard between the building and the parking lot and that requires a liquor license amendment.

Furman is concerned about going over the fence or lifting someone over the fence.

Motion by Borchardt, seconded by Jensen, to approve Resolution 026-04-28-14, "A RESOLUTION AMENDING THE LIQUOR LICENSE FOR THE OAK INN, 5896 OLD MAIN STREET." All voted AYE. Motion carried.

7C BUILDING NONE

7D FINANCE

D1 2013 Audit Acceptance

Motion by Jensen, seconded by Blomquist, to approve Resolution 025-04-28-14, "A RESOLUTION ACCEPTING THE 2013 AUDIT FOR THE CITY OF NORTH BRANCH CONDUCTED BY CLIFTON LARSON ALLEN, LLP." All voted AYE. Motion carried.

7E LEGAL NONE

NOTICES AND COMMUNICATIONS:

8A Fire Department Smelt Fry INFO

PUBLIC COMMENT:

Emil Dahlberg, 38336 Cassleberry, said that he sent an email to the City Administrator regarding his concern for the way this item was included on the agenda. He said he knows there are times when there is a need to amend the Agenda but this item could have been taken up in the timely process. The general public did not know this was going to be discussed tonight.

John Heimer, 5150 417th Street, said he has lived here for 10 years and he has been complaining about the grading on the dirt roads and yet they are still not being graded properly. The buses go down the road and it is nothing but a cloud of dust. He takes the back way to Fish Lake and he takes the back way to avoid the Chloride because it is corrosive. He is putting down Chloride where there are farm fields and no houses and he was told it was \$1,600 per application to do 412th Street and he thinks the reason this is being be done is because it is not graded properly. He then said that he was told that the Class 5 on 412th Street is shot and he would like to know if it was tested or if this is just an excuse as to why there is all this dust. Then there was an issue with drainage ditches if there is Class 5 but there needs to be a turn around and he does not want a turn around and he finally agreed but that took five years. The agreement was to cut the trees along 417th Street because it is a hazard with kids going through the stop sign. It took three and a half year to get the trees cut and it is upsetting. Then there was a huge oak tree on 417th Street and from 4 to 10 feet you could see it was hollowed out so he wanted that removed and looked at.

Mr. Heimer said that he calls and cannot get a response from Williams so he talked to Konrad who told him that the tree was fine and that Williams had reviewed it. Then in

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December his wife got stuck in the intersection and finally he came and he asked about the oak tree and he asked if Williams got the messages and was told by Williams the owners want to keep the tree.

Lindquist commented that this was a year or more ago.

Mr. Heimer said trees can kill people and this tree is hazardous and should come down. He said he also told the staff about a tree on Maple Street that is a hazard. There are kids walking up and down the sidewalk and it is not taken care of. It takes a month to get the staff to cut a branch off a tree and he is tired of it. Mr. Heimer said that he wants to find out about the salt that is going in the lakes from the chloride and he wants to know who told staff it is okay that this salt runs into his lake. For 8 years he has asked about grading and when it is supposed to be done. He would like a response and something done.

Laurie Warner, 40589 Golden Avenue, said that she would like to thank Council for their actions on the asphalt plant. She then said that silica dust can cause silicosis and this dust enters the lungs and forms scar tissue and there is no cure. Ms. Warner said that one should not eat, drink, smoke or apply cosmetic in areas where the silica dust is present. They have a concern about the dust that they will receive from trucks going in and out of this proposed facility. She is also concerned with the roads and noted that Mn/Dot is monitoring roads from increased commercial traffic in Minnesota. The ability of local road systems varies but roads and bridges are designed for lighter vehicles or low levels of traffic. Ms. Warner said that Jensen made a comment that business owners do not have the same long term outlook as a resident does and that is true and why she and her neighbors are concerned about the effects of a potential short term benefit and long term negative impact. Ms. Warner said she could not find the Agenda for tonight's meeting but there was a notice of a fracking meeting and it said 6:00 a.m. but now she finds out it is 6:00 p.m.

Borchardt said that she went through the March 24 Minutes and there were some timelines and comments that were not totally factual and she would like to provide the timelines to Council to clarify that some factual information it said Ms. Oehlers would provide facts for distribution and she would like to know if those were received. Konrad indicated that they were received. Blomquist indicated that she does not believe the timeline is completely accurate as presented by Borchardt and would like to have it edited to include the December 10 email and the email from Barrett. She noted that Melrose was used when drafting the legislation. She asked Borchardt if she researched the Melrose legislation between December and January.

Lindquist asked how Council wanted to handle Mr. Heimer's requests. Jensen does not want to air dirty laundry in public.

Public Works Director Williams indicated he would like this to be done publicly because this has been going on for 7 to 10 years and he is tired of it. He then clarified that Mr. Heimer's road is graded the same as other roads in town. Williams indicated that he spoke with Mr. Heimer who asked him to grade the road the same as Spring Lake Road

and that was done but Mr. Heimer was still not happy. Williams indicated that the roads are re-graveled on a five year rotation and this is the year for Mr. Heimer's road to be re-graveled and Mr. Heimer has been told that. Williams said that he is sick of dealing with public harassment from Mr. Heimer including all kinds of frivolous claims and issues he calls to report that take staff time to research and review. Williams indicated that Konrad has also experienced the harassment from Mr. Heimer and staff has phone recordings to prove the harassment. Williams asked the Council to put this to rest.

Jensen said that other than from Mr. Heimer he has heard nothing but good about Mr. Williams so he would not be interested in further discussing this. Lindquist said that he has received calls from Mr. Heimer and Mr. Heimer has had his opportunity to address the Council.

Mr. Heimer said he feels he had to come and report the hazardous trees that need to be removed. Council indicated that there have been no other complaints regarding Mr. Williams.

Mr. Heimer attempted to make further comments and Mayor Lindquist told him the public comment period was over.

UNFINISHED BUSINESS: **NONE**

NEW BUSINESS: **NONE**

MAYOR AND COUNCIL:
12A Upcoming Agendas **INFO**

12B Elimination of Primary
Lindquist indicated that there is no date for eliminating the primary in the Statute. Lindquist said he wants to get rid of it so anyone who wants to run can run. There is no reason why it cannot be eliminated. City Attorney Squires indicated that the Statute that governs primaries is silent as for a deadline for eliminating a primary. Election laws create all kinds of deadlines for publishing things and posting things. There are certain deadlines for giving notice by publication and that date is May 6 and that required notice in the paper, which has gone to the paper. City Attorney Squire suggested elimination of the primary by resolution or ordinance as it was established.

Konrad explained that the wheels are in motion for having the primary and her concern is there will be confusion by the residents since the message is out there that there is a City primary. She talked to the Secretary of State's Office and there is no date to eliminate and since the proceedings have begun for the primary the Secretary of State felt that there should be findings as to why the elimination.

Furman asked about costs for a primary. Konrad indicated that there will be a primary and the City will have costs regardless of whether there is a city election on the primary ballot.

Borchardt asked when the filing deadline would be without a primary. Konrad indicated it is sometime in July. Blomquist said she would be concerned to make this change during an election year. She would prefer the Council to address this after the first of the year rather than when the staff has already begun the process.

Jensen said he agrees there is no need for a primary but his concern with what is being done is that the "horse is out of the barn" on the process. It seems kind of late to make a change.

Lindquist indicated that this should have been brought up earlier but he thought there was more time.

Laurie Warner, 40589 Golden Avenue said that she does not want to discourage anyone who wants to run for office but there is a format of how the elections have been handled and she thinks that a change at this point could hinder the process.

Emil Dahlberg, Cassleberry Drive said that he has concerns about this and would want open and fresh dialogue and the appearance is that this is being done in a hurry and he would be opposed to eliminating the primary at this time.

Blomquist would like to wait to eliminate the primary until after the election period.

Lindquist would like to get rid of the primary.

Furman said it is a whole lot easier not to do a primary for those that are running for office.

Consensus was to leave the primary as it is for this election.

Motion by Furman, seconded by Jensen to adjourn. All voted AYE. Motion carried.

ADJOURNED: at 9:25 p.m.

Respectfully submitted,

Bridgitte Konrad, City Administrator
jrl/TOSS