

# 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

February 23, 2016

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

### PLEDGE OF ALLEGIANCE:

ROLL CALL: Councilmembers present were: Theresa Furman, Kirsten Hagen-Kennedy, Joyce Borchardt, and Robert Canada. Councilmembers absent: Kathy Blomquist. Staff members present were Finance Director Hill, GIS Specialist Sondrol, Community Development Director Vita and City Attorney Helmers .

### PUBLIC COMMENT:

Peter Schaps appeared before Council to bring additional facts about his non-appointment to the Economic Development Association. He then read a statement concerning the events surrounding Council discussion of the appointment.

Cindy Erickson appeared before Council and commented on the differences between a leader and a ruler. Ms. Erickson commented that she made a comment regarding Councilmember Borchardt, which was not meant to shame her but to voice her opinion and ask whether special treatment was being given. Ms. Erickson indicated that it is shameful to publicly shame her for being late on her water bill years ago when she was a single parent trying to keep her small business going. She then said that if that is the only skeleton that can be found in her closet she can live with it. Ms. Erickson said that everyone has a right to free speech and not be subject to research, shaming, and skeletons in the closet, if any being made public. Ms. Erickson said that she is concerned that Councilmember Borchardt is forcing by intimidation that there be no free speech or public comments for fear of retribution or public embarrassment.

Laurie Warner appeared before Council and spoke on the topic of public comment. She noted that she was once a city council person and knew she would be held to a higher standard. Ms. Warner said she has been the subject of not so kind comments but she never publicly shamed anyone or sought to eliminate free speech. Ms. Warner said that an elected official using their position to determine facts about anyone speaking out about something at public comment to humiliate them is inappropriate. Ms. Warner indicated that the courts have ruled that Councilmembers have to tolerate divergent views even if they are not popular or comfortable. Ms. Warner said that public comment periods at a government meeting tells residents they have the right to free speech but when government officials create a government forum in which greater freedom of speech exists. Government officials may not silence speech because it criticizes them and that is what Councilmember Borchardt has been attempting to do.

Dennis Johnson appeared before Council and said that the proposed changes to the public comment period he learned about while reviewing the proposed Agenda for this meeting. In his opinion, this is strictly an intimidation and stifling of public comment. The last time he spoke Council talked about ways they could change the public comments because they did not like what he said. This, to him, is an intimidation of certain citizens' right to free speech.

**CONSENT AGENDA:**

- Claims
- Liquor Store Cashier Hevargo – Remove from Probation
- Resolution No. 020-02-23-16 – NBML Temporary Liquor License
- Public Works Maintenance Fisk – Remove from Probation
- Set Board of Equalization Meeting – April 20 at 6 p.m.
- Minutes – January 15, 2016 Special Session
- Minutes – January 21, 2016 Work Session

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

**PUBLIC HEARINGS:**

**NONE**

**COMMITTEE/COMMISSIONS:**

**7a PLANNING COMMISSION**

**i. Minutes**

**ii. Meeting Update**

Furman provided a meeting update for Council.

**iii. Wildridge 8 Preliminary Plat Extension**

Community Development Director Vita provided an overview of the Wildridge 8 preliminary plat. They are requesting a one year extension on the preliminary plat. Canada asked about condition seven that was lined out. The Vita explained.

Motion by Canada, seconded by Borchardt, to approve Resolution 019-02-23-16, "A RESOLUTION APPROVING THE REQUEST FOR EXTENSION OF A 19 SINGLE FAMILY LOT PRELIMINARY PLAT FOR THE PROPERTY ON EMERALD BOULEVARD, NORTH OF 382<sup>ND</sup> DRIVE, WEST OF FALCON AVENUE KNOWN AS WILDRIDGE PRELIMINARY PLAT 8." All voted AYE. Motion carried.

**iv. Chicken Ordinance Amendment – Update**

Community Development Director Vita provided an update on the chicken ordinance noting that the Planning Commission has asked

Council to call for a public hearing to consider amendments to the chicken ordinance.

Motion by Borchardt, seconded by Canada, to call for a public hearing on the Chicken ordinance.

Furman said that she is not comfortable with turkeys on a small lot. Borchardt would like to get public input on this.

After discussion, All voted AYE. Motion carried.

**v. Recommendation to Suspend Comprehensive Plan**

Community Development Director Vita provided an overview of the Planning Commission's proposal to suspend the Comprehensive Plan. The rationale is that the Comprehensive Plan is only a guide, has items that are not consistent with the zoning code, and concerns with the 20-year growth ring.

Furman said the Planning Commission was really frustrated and they feel that there is no other way to move things along. Furman said that a financial plan regarding the 20-year growth ring was not considered during the time the Comprehensive Plan was adopted. Furman said she disagree with suspending the Comprehensive Plan but she understands the recommendation because of the need to have 4/5<sup>th</sup> vote to make changes. Furman said she would like to see tweaks to the Comprehensive Plan rather than a suspension of the plan. Canada said he would need to know more about what the financial ramifications would be for a suspension or Comprehensive Plan amendment. Canada said he would like to come to some middle ground on this issue. Borchardt indicated there are concerns with the 36 square miles of North Branch with development due to the freeway and the river and infrastructure costs that price North Branch out of the development market. Borchardt noted that the assumptions made by the Comprehensive Plan have not played out to this point. Borchardt would like to have a public hearing and discuss this to determine what is going on and what the public wants to see because right now the current regulations are stifling development. Hagen-Kennedy said that 75 percent of homes built are single-family homes and utilize city services. Hagen-Kennedy said that there are 8200 acres available for larger lots. She then said it is important to meet financial obligations and staff has strongly advised against this and she is very disheartened with how the Planning Commission treated staff. She then apologized to staff. Hagen-Kennedy said that the Planning Commission is merely advisory and this is the responsibility of the City Council. Hagen-Kennedy said that she

feels that it is irresponsible to consider setting aside the Comprehensive Plan without considering the financial ramifications of doing so. There are a few developers who really want this but the Council has the responsibility to plan for the future not just to accommodate a couple of local developers. Hagen-Kennedy said she would not vote to support this. Hagen-Kennedy said that in Wood Duck Ponds there has been development and there was some stall in development but that is changing. Borchardt commented that of the 8200 acres stated for development some of that land is not developable. Furman said she would like to know if everyone is willing to at least consider changes to the Comprehensive Plan to send it to a work session. Furman asked if everyone is willing to compromise. Canada would be fine with a work session. Borchardt would like to go to work session for discussion. Council will add this to a work session meeting for discussion.

**7b ECONOMIC DEVELOPMENT AUTHORITY NONE**

**7c PARK COMMISSION**

**i. Minutes**

**ii. Blue Cross MN Active Demonstration Places Grant Application**  
Sondrol outlined the grant opportunity. Furman said she really likes the bike shoulder striping for high traffic routes.

Motion by Hagen-Kennedy, seconded by Canada, to approve Resolution 018-02-23-16, "A RESOLUTION SUPPORTING THE PROPOSAL TO THE BCBSM ACTIVE PLACES PROGRAM." All voted AYE. Motion carried.

**iii. DNR Outdoor Archery Grant Application**

Sondrol explained the grant opportunity. Borchardt indicated that for the outdoor archery there is a need to have plans and specifications ready to go. Hagen-Kennedy would like to continue to work on this with archery partners and perhaps utilize the Blue Cross grant funds.

**7d WATER AND LIGHT COMMISSION**

**i. Meeting Update**

Furman provided a meeting update.

STAFF REPORTS:

**8a ENGINEERING/PUBLIC WORKS NONE**

**8b ADMINISTRATION NONE**

8c	<b>BUILDING</b>	<b>NONE</b>
8d	<b>FINANCE</b>	<b>NONE</b>
8e	<b>LEGAL</b>	<b>NONE</b>
8f	<b>PUBLIC SAFETY</b>	<b>NONE</b>
8g	<b>OTHER</b>	<b>NONE</b>

NOTICES AND COMMUNICATIONS: **NONE**

UNFINISHED BUSINESS: **NONE**

NEW BUSINESS: **NONE**

MAYOR AND COUNCIL:

**12a UPCOMING AGENDAS** **INFO**

**12b HAGEN-KENNEDY – LEAGUE CONFERENCE UPDATE**

Hagen-Kennedy indicated she and Blomquist attended the Leadership Conference for experienced officials. The presenter was a man who has written books and done case studies on lovable cities. All the attendees were suddenly talking about what they love about the cities they live in.

**12c BORCHARDT – PUBLIC COMMENT RESPONSE & BY LAW AMENDMENT**

Borchardt reviewed transcripts of her comments. Hagen-Kennedy asked if responses have been done like this in the past because someone went back to 2005 with bills and other data. Borchardt then read through the comments made about her and her response to those comments. Hagen-Kennedy asked if any of the information being presented has been fact checked by the staff.

Motion by Borchardt, seconded by Canada to appeal the presiding officer's decision to not allow her to go through the documentation.

The City Attorney indicated that there was no decision to appeal. Hagen-Kennedy indicated she had asked Borchardt to be brief with her comments.

Hagen-Kennedy indicated that the information being presented was written by the Borchardts and has not been fact checked at all by City staff and she wants to be clear so that residents know this is the opinion of the Borchardts and their version of events.

Borchardt continued reading statements made about her and her mobile home park water bill matter and her responses to them.

Hagen-Kennedy asked whether Borchardt owns the Pederson Park as well. Borchardt indicated she was providing information regarding his park.

Borchardt indicated she would like an amendment to the bylaws and then reviewed her proposed change. Hagen-Kennedy asked who gets to make the determination as to whether the comments are false. Borchardt indicated Councilmembers would. The City Attorney indicated that Council is not required to allow public comment but if you are going to allow it then it creates a limited open forum. Under the first amendment you cannot restrict the speech because you do not like or do not appreciate what is being said. You can create time restrictions, place and manner of how the public comments are allowed. The City Attorney said he is available to answer specific concerns the Council has about the language but in general he would say that political speech limitation would potentially violate the First Amendment. He then said he is open to specifics of the proposal. Borchardt said that in the past there was a requirement to limit public comment to city operations. Borchardt this is not trying to stifle people from commenting but require the comments to be made in an accurate manner. Borchardt said she would like Councilmembers to be able to respond back. Hagen-Kennedy said she has been in court because someone said she violated their First Amendment right on social media. Hagen-Kennedy said that it was mentioned and not one Councilmember spoke up so if you want to restrict someone's right to free speech then it would be better to get rid of public comment all together. Hagen-Kennedy said that she wants to know who assumes the liability of limiting speech. The City Attorney indicated that the City itself would take on any liability. Hagen-Kennedy said she would not want the residents to assume the liability. Hagen-Kennedy said she is concerned with the limiting of free speech being proposed. The City Attorney indicated he does have concern regarding potential liability with the proposed limits to speech. Borchardt asked about adding the ability for a Councilmember to research an item brought up. The City Attorney indicated that a Councilmember is always free to research an item. Furman said that her concern is the additional conversations after Council meetings with someone who seems to be aligned with someone who comes to public comment to speak and tries to chastise another Councilmember. Furman said that is very undignified. Furman said when there was training those that run the meeting are slaves to the rules but have the guidance or ability to govern the rules. Furman said that there are a lot of one-sided comments that does not do the city, council or staff any good to be that negative.

**12d BORCHARDT – OFFER OF CONFLICT TRAINING FROM MEDIATION SERVICES**

Borchardt indicated there is an email in the packet from Dave Bartholomay to offer assistance to Council and there was not a majority to accept this training. Hill noted that March 10 and March 24 are the dates suggested for the training. Furman said she asked who was not interested in the training and Blomquist and Hagen-Kennedy are not interested in the training. Hagen-Kennedy said she has conflicts with the proposed dates. She then said that they went through medication already and there have not been any changes. Hagen-Kennedy said that she has seen little change in behavior and she has things to do and time constraints. What she has seen tonight reminds her of the illegal mailer that went out about her. She goes to training and she is working hard on being professional and she thinks that others can and should get more training.

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

ADJOURNED: at 8:45 p.m.

Respectfully submitted,

Bridgitte Konrad, City Administrator  
jrl/TOSS