



MAYOR & COUNCIL COMMUNICATION

DATE: 12/07/2010
REGULAR
ITEM #: **15**
MOTION *Resolution No. 2010-072*

AGENDA ITEM: Response to Petition for Detachment

SUBMITTED BY: Kyle Klatt, Planning Director

THROUGH: Bruce Messelt, City Administrator

REVIEWED BY: David Synder, City Attorney
Kelli Matzek, City Planner

SUMMARY AND ACTION REQUESTED: The City Council is respectfully requested to affirmatively consider and adopt a resolution in response to a Petition for Detachment that has been submitted to the State of Minnesota Office of Administrative Hearings/Municipal Boundary Adjustments. The property included in the petition is located in the extreme northeastern portion of the City, north and west of 55th Street North. The City is not required to respond at this point in time. However, it will be beneficial for the City to clarify its position regarding this request early in the process. The recommended motion to act on this is as follows:

SUGGESTED MOTION: *“Move to adopt Resolution No. 2010-072 stating the City of Lake Elmo’s opposition to a Petition to detach certain properties from the City of Lake Elmo and make them a part of Stillwater Township”*

BACKGROUND INFORMATION: The City received notification from the Office of Administrative Hearings/Municipal Boundary Adjustments (OAHMBA) on November 15, 2010 that property owners Bernard and Loella Nass and Robert Buberl had submitted a Petition for Detachment of their properties from the City of Lake Elmo and to make them a part of Stillwater Township. The properties included in the request are located north and east of 55th Street North, South of Highway 36, and immediately west of the City’s boundary with the City of Oak Park Heights. These parcels are highlighted on the attached map, which also includes the City/Township boundaries in this area.

In accordance with Minnesota State Statutes, a hearing concerning the detachment petition is required in front of an administrative law judge, **unless** the Office of Municipal Boundary Adjustments receives a resolution of support from the City of Lake Elmo by December 7, 2010. In the absence of such a resolution, a hearing will be scheduled and a judge will review the request for detachment. Since the City was not made aware of the petition in advance of its

submission to the Municipal Boundary Adjustments office, this request has not previously been reviewed by the City of Lake Elmo.

At this point the City can simply provide no response regarding the petition, in which case a hearing will be scheduled due to the absence of a resolution of support from Lake Elmo. Staff is recommending that the City Council consider adopting a resolution; however, that would state the City's position as being *opposed* to the detachment request in order to clarify the City's official response early in this process.

STAFF REPORT: As noted above, the City of Lake Elmo has been approached by the petitioners to discuss the detachment petition. Staff is currently researching the history of these parcels, but at this, but would like to note the following as a quick synopsis:

- The subject properties were annexed into the City of Lake Elmo from Baytown Township in the mid 1990's with land that would become Carriage Station (this annexation included a portion of the open space in Fields of St. Croix as well).
- The City Council received an application for a Comprehensive Plan Amendment from the petitioners and an additional property owner in April of 2002 to change the future land use designation of this area from RAD – Rural Agricultural Density to C – Commercial. The Council adopted a resolution on May 7, 2002 denying the proposed Comprehensive Plan Amendment.
- The City rejected a request to meet with the City of Oak Park Heights to discuss an annexation request from three Lake Elmo property owners in this same area in 2006. The specific motion adopted by the Council on September 19th of this year reads as follows: “[Motion] to direct Staff to write a letter to the Oak Park Heights Council stating that the Lake Elmo City Council is not interested in a meeting with the Oak Park Heights City Council on the detachment annexation matter and that the Lake Elmo Council desires to keep Lake Elmo intact with no land detachments to adjoining communities”.

The subject properties are currently zoned A – Agriculture and are guided for RAD – Rural Agricultural Density in accordance with the City's Comprehensive Plan. The site, as a whole, is eligible to be developed as an OP – Open Space Preservation Development since it exceeds 40 acres in size. Current use of the petitioners' property includes a farm/residence, vacant/agricultural land, and property that is used as part of a commercial recycling/composting operation that is located in Oak Park Heights.

The area immediately surrounding the subject properties is somewhat unique because it is located close to the boundaries of five different local government entities. In reviewing the land use plans for these entities, Staff would like to note the following observations:

- The City of Oak Park Heights does identify this area as a “possible annexation area”, but specifically notes elsewhere in its plan that “extra-territorial growth will only occur at the request of the property owner and agreement by the adjoining jurisdiction”.
- The City of Stillwater and Stillwater Township have adopted an orderly annexation agreement, and all portions of Stillwater Township that are presently adjacent to the City of Lake Elmo will be annexed by the City of Stillwater in the future. The only portion of Stillwater Township that is adjacent to the petitioners’ property is surrounded by the City of Stillwater and is presently isolated from the rest of the township.

Based on the City of Lake Elmo’s lack of participation to date in any discussions with the property owner or any of the surrounding cities/township regarding the proposed detachment, Staff is recommending that the City Council adopt a resolution stating its objections to the proposed detachment or real property from Lake Elmo. At this early point in the proceedings, Staff also recommends that the resolution include language noting that the a portion of the property is currently used as part of a commercial composting and recycling operation, the property is separated by a major geographic boundary from Stillwater Township, and that the request for detachment does not appear to meet the requirements in State Statutes for detachment.

RECOMMENDATION: Based upon the above background information and staff report, it is recommended that the City Council discuss and, if appropriate and so inclined, state its objections to the proposed detachment of real property from Lake Elmo by undertaking the following motion:

SUGGESTED MOTION: ***“Move to adopt Resolution No. 2010-072 stating the City of Lake Elmo’s opposition to a Petition to detach certain properties from the City of Lake Elmo and make them a part of Stillwater Township”***

Alternatively, the City Council may table and action on this item at this time or even consider supporting the request for detachment – which should be followed by discussion tonight with staff to prepare and develop findings of fact to support such action in time for the December 7th deadline. If inclined to support detachment, the following motion would be in order:

“Move to adopt Resolution No. 2010-072A stating the City of Lake Elmo’s support for a Petition to detach certain properties from the City of Lake Elmo and make them a part of Stillwater Township”

The City Council may also further deliberate and amend the proposed Resolution of opposition. If undertaken, the amended motion would be as follows:

“Move to adopt Resolution No. 2010-072 stating the City of Lake Elmo’s objection to a Petition to detach certain properties from the City of Lake Elmo and make them a part of Stillwater Township [as amended at tonight’s meeting].”

ATTACHMENTS

1. Resolution No. 2010-072
2. Notice of Petition for Detachment
3. Map of Detachment Parcels (prepared by Lake Elmo Planning Dept.)
4. Detachment Petition with supporting documentation

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item City Administrator
- Report/Presentation..... Planning Director
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion..... Mayor Facilitates
- Action on Motion..... Mayor & City Council