

CITY OF LAKE ELMO
CITY COUNCIL MINUTES
MAY 6, 2014

Mayor Pearson called the meeting to order at 7:01 pm.

PRESENT: Mayor Mike Pearson and Council Members Wally Nelson, and Anne Smith.

Absent: Council Members Mike Reeves and Justin Bloyer. (Bloyer viewed meeting electronically)

Staff present: City Administrator Zuleger, City Attorney Snyder, Community Development Director Klatt, City Engineer Griffin, Finance Director Bendel, and City Clerk Bell.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

Council Member Nelson requested Consent Agenda Item 4 be pulled for discussion

MOTION: Council Member Smith moved **TO APPROVE THE MAY 6, 2014 CITY COUNCIL AGENDA AS AMENDED.** Council Member Nelson seconded the motion. **MOTION PASSED 3-0.**

ITEM 1: ACCEPT MINUTES

THE APRIL 15, 2014 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

COUNCIL REPORTS:

Mayor Pearson: Attended lib volunteer appreciation meeting.

Council Member Nelson: Working on pro formas; conducted ride along with building official.

Council Member Smith: Reminded council about speak your peace in regards to recent letters to the editors. She called for increased decorum in correspondence.

PUBLIC COMMENTS

PRESENTATION

Jaycees President Heather Noyes and Leigh Smith presented check to the city of Lake Elmo in amount of \$10,000. The council thanked the Jaycees for all their hard work in the community.

Item 9 was moved to beginning of regular agenda.

CONSENT AGENDA

2. Approve Payment of Disbursements and Payroll
3. Well No. 4 Connecting Watermain Improvements – Pay Request No. 1
4. ~~Damon Farber Associates – Lake Elmo Avenue Preliminary Streetscape Design Services~~

MOTION: Council Member Nelson moved **TO APPROVE THE CONSENT AGENDA AS AMENDED.** Council Member Smith seconded the motion. **MOTION PASSED 3-0.**

ITEM 4: DAMON FARBER ASSOCIATES – LAKE ELMO AVENUE PRELIMINARY STREETScape DESIGN SERVICES

City Administrator Zuleger explained why Damon Farber was selected over SEH. The project was put out to bid and DFA came in lower. Washington County is using SEH. Due to cost savings and existing relationship with the theming work city has done retaining DFA is beneficial. Finance Director Bendel explained how it would be financed. It will be recovered from capitalization and bonding.

Council Member Smith stated that Planner Johnson explained that if SEH was chosen, the county would have to review it first. Using DFA will give the City more direct control.

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MOTION: Council Member Smith moved **TO APPROVE THE DOWNTOWN LAKE ELMO AVE. PRELIMINARY STREETScape DESIGN TASK ORDER SUBMITTED BY DAMON FARBER ASSOCIATES FOR AN AMOUNT NOT TO EXCEED, WITHOUT APPROVAL, \$27,600.** Council Member Nelson seconded the motion. **MOTION PASSED 3-0.**

ITEM 9: LATERAL BENEFIT POLICY – WATER & SEWER. ORD. 08-108

City Administrator Zuleger explained background on the lateral benefit charge and the related challenges that are unique to current Lake Elmo projects regarding differing service areas. The Council recently had a special meeting on 4/23 to discuss the LBC.

MOTION: Mayor Pearson moved **TO APPROVE ORDINANCE NO. 08-108 TO ESTABLISH A FORMULA FOR LEVYING LATERAL BENEFIT ASSESSMENTS FOR BUILDING UNIT (PARCELS) BOTH IN AND OUT OF UTILITY AREAS DESIGNATED BY THE COMPREHENSIVE PLAN.** Council Member Nelson seconded the motion.

Council Member Nelson expressed his desire to eliminate section 3 or a portion thereof.

MOTION: Council Member Nelson moved **TO AMEND THE MOTION BY STRIKING ALL LANGUAGE FOLLOWING THE FIRST SENTENCE OF PARAGRAPH 3.** Council Member Smith seconded the motion. **MOTION TO AMEND PASSED 3-0.**

ORIGINAL MOTION PASSED 3-0.

City Administrator Zuleger left the meeting at 7:30 pm to attend state bonding meetings at the State Capitol.

REGULAR AGENDA

ITEM 5: PUBLIC HEARING: 39TH STREET N: STREET & SANITARY SEWER IMPROVEMENTS – IMPROVEMENT HEARING; ORDER PLANS AND SPECIFICATIONS; RES. NO. 2014-27

City Engineer Griffin explained the scope and status of the project. Assessments will be paid over 10 years pursuant to the assessment policy. It was noted that the property owners to the south have contacted city about expanding the project across Highway 5.

Council Member Nelson sought clarification of the City's liability for the project regarding the waivers. Mr. Griffin explained that the waivers eliminate the opportunity to appeal.

MOTION: Council Member Nelson moved **TO OPEN THE PUBLIC HEARING.** Council Member Smith seconded the motion. **MOTION PASSED 3-0. PUBLIC HEARING OPENED AT 7:48 PM.**

No public input.

MOTION: Council Member Smith moved **TO CLOSE THE PUBLIC HEARING.** Council Member Nelson seconded the motion. **MOTION PASSED 3-0. PUBLIC HEARING Closed AT 7:49 PM.**

MOTION: Council Member Nelson moved **TO ADOPT RESOLUTION NO. 2014-27 ORDERING THE 39TH STREET NORTH: STREET AND SANITARY SEWER IMPROVEMENTS AND THE PREPARATION OF PLANS AND SPECIFICATIONS CONTINGENT UPON THE CITY RECEIVING ALL OF THE PETITION AND WAIVER AGREEMENTS AND GREEN ACRES DOCUMENTATION BY DEADLINE OF CLOSE OF BUSINESS, MONDAY (5/12).** Council Member Smith seconded the motion.

Council discussed the merit versus risk of requiring 100% of waivers prior to ordering project. It was stated that setting deadline for 100% compliance makes a statement of what is expected.

Council Member Smith offered friendly amendment to extend deadline until Friday (5/16). Council Member Nelson accepted friendly amendment.

Mr. Griffin asked that design begin while waiting to receive waivers. Council supported permitting the design work to begin without delay.

Mayor Pearson cautioned that Council may face the possibility of the project being delayed by one of the smaller properties not complying in time.

MOTION PASSED 3-0.

Mr. Griffin explained how the engineering consultant recommendation was obtained. Council Member Smith inquired about the past difficulties the City has had with the recommended firm. Mr. Griffin explained that the past problem was because of a subcontractor, and a different project management team is being used.

MOTION: Council Member Smith moved TO APPROVE BOLTON & MENK AS PROFESSIONAL ENGINEERING DESIGN AND CONSTRUCTION SUPPORT SERVICES CONTRACT. Mayor Pearson seconded the motion. MOTION PASSED 3-0.

Council Member Nelson applauded staff on its efforts for this project.

ITEM 6: 2014 STREET IMPROVEMENTS – APPROVE PLANS & SPECIFICATIONS; AUTHORIZE AD FOR BIDS; RES. NO. 2014-28

City Engineer Griffin explained the scope and status of the project. June 5th is expected date for bids. The next council meeting after that Council will be asked to award the project. There are almost no changes since the feasibility report. Mr. Griffin summarized technical aspects of some of the various project areas and explained the assessments for the various parcels. The total estimated project cost is \$1,811,000, of which \$1,329,200 (73%) is the City's share. The estimated assessment revenue is \$481,800 (27%). Mr. Griffin explained the remaining schedule.

Council Member Smith asked about portion in West Lakeland. Mr. Griffin explained that the portion is included.

MOTION: Mayor Pearson moved TO APPROVE RESOLUTION NO. 2014-28, APPROVING THE PLANS AND SPECIFICATIONS AND ORDERING THE ADVERTISEMENT FOR BIDS FOR THE 2014 STREET IMPROVEMENTS. Council Member Smith seconded the motion.

Mayor Pearson asked to look into other funding sources instead of bonding. Council discussed using undesignated fund balance and agreed it is important to not affect the bond rating.

MOTION PASSED 3-0.

ITEM 7: WEDDING VENUE ORDINANCE; ORD. 08-107, RES. NO. 2014-29

Community Development Director Klatt provided overview of the proposed ordinance. Planning Commission did not feel that the parcel should host receptions. The history of the previous ordinance was also referenced. The Planning Commission recommended passage of this proposal with a few alterations.

Council Member Nelson asked about duration of the Interim Use Permit. Mr. Klatt explained the duration can be from 1 to more than 10 years. They are typically granted 1 year for initial permit and then after evaluating extend the duration.

Mayor Pearson asked how the 150 number of guests was arrived at. The applicant proposed the number and it is similar to what neighboring community Afton has. Mayor Pearson also asked about the three hour limit. Set up and take-down time is not included.

MOTION: Council Member Smith moved TO ADOPT ORDINANCE 08-107 ADDING PROVISIONS CONCERNING COMMERCIAL WEDDING CEREMONY VENUES TO THE ZONING ORDINANCE. Council Member Nelson seconded the motion.

Council Member Smith noted that the current proposal was much different than previous iteration. Her parcel is appropriate for this type of activity. Ms. Smith thanked the applicant for scaling it down and compromising. She also commended the Planning Commission on their work.

Mayor Pearson asked about tent time limitation. Ms. Smith stated that 48 hours may be better. Council Member Nelson prefers 72 hours. Mayor Pearson also supported 72 hours.

MOTION: Council Member Smith moved TO AMEND THE MOTION EXTENDING THE TIME LIMIT FOR TENT REMOVAL TO 72 HOURS. Council Member Nelson seconded the motion. MOTION TO AMEND PASSED 3-0.

ORIGINAL MOTION PASSED 3-0

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City Clerk Bell explained that the summary publication resolution needs 4/5 vote and due to the lack of 4 Council Members being present the resolution would need to be postponed.

ITEM 8: CONDITIONAL USE PERMIT – VERIZON WIRELESS COMMUNICATIONS TOWER; RES. NO. 2014-30

Community Development Director Klatt provided overview of the proposed CUP. He introduced Garret Lysiak – consultant communications engineer from OWL Engineering.

Faulk and Foster Real Estate, Inc. (c/o Blake Conklin) on behalf of Verizon Wireless Communications applied for a Conditional Use Permit to install a new 125-foot telecommunications tower on the site of the Oakland Junior High School in Lake Elmo. The Planning Commission recommended approval.

Mr. Lysiak explained his methodology and summarized the results of his findings. It was noted that the tower itself was of adequate and appropriate design. Mr. Lysiak stated that the proposed tower is not a radiation hazard. RF radiation is actually lower for users when closer to the tower. The Council discussed hiding the tower. It was explained that efforts to hide the towers are not that effective.

Mayor Pearson asked how many towers a year Mr. Lysiak reviews. He responded about a dozen full proposals but several more partial reviews. None of the reviews have found that the tower is not needed. It was explained that it is not in the companies’ financial interest to select poor placement.

MOTION: Council Member Smith moved TO ADOPT RESOLUTION 2014-30, APPROVING A CONDITIONAL USE PERMIT AMENDMENT REQUEST BY VERIZON WIRELESS TO CONSTRUCT A 125 FOOT TELECOMMUNICATIONS TOWER ON THE SITE OF THE OAKLAND JUNIOR HIGH SCHOOL. Council Member Nelson seconded the motion. MOTION PASSED 3-0.

Mayor Pearson noted that Mr. Zuleger was at capitol working on bonding request. The fire truck purchase will be on the next meeting’s agenda.

City Attorney Snyder: reported working on 39th Street waivers; participated in Savona/Section 34 meetings; working on nuisance properties legal issues.

Community Development Director Klatt: working on 5 preliminary plats. Hammes will be reviewed at next planning meeting; reported that the Planning Commission does not believe the discussed Animal Assisted Therapy ordinance is needed.

City Engineer Griffin: reported Well No. 4 is done and has quality production. Section 34 Watermain construction is proceeding.

Finance Director Bendel: working on cash flow analysis; finishing remaining audit issues. Expects audit to be done mid-June; working on bonding preparation; first quarter water bills have been sent out. Mayor Pearson asked about impact of delay on bonding. Ms. Bendel said there would be no impact on bonding because we have a draft available.

City Clerk Bell: attended MN Clerk Institute.

Mayor Pearson adjourned meeting at 8:57 am.

LAKE ELMO CITY COUNCIL

ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk