

MINUTES APPROVED: September 7, 2004
LAKE ELMO CITY COUNCIL MINUTES

AUGUST 17, 2004

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6. NEW BUSINESS:
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 - A. Highway 5
 - B. Fire Service Agreement with City of Hudson, WI
 - C. Disposal of Fire Equipment
 - D. Animal Ordinance Amendment
 - E. Purchase offer for 3585 Laverne Avenue
 - F. Vacation of 55th Street
 - G. Council Committees
12. CITY COUNCIL REPORTS:
 - A. Mayor Hunt: Board of Directors Vacancies; LMC 2004 Annual Conference
 - B. Council Member John:Discussion of Smoking Ban

Mayor Hunt called the meeting to order at 7:00 p.m. in the Council Chambers.
PRESENT: John, Dunn, Hunt, Johnston, DeLapp, City Engineer Prew, City Attorney Filla, Building Official McNamara, Finance Director Tom Bouthilet, and Administrator Rafferty.

1. AGENDA

Add: Refer Vacation of 55th Street to Planning Commission, New City Center, Council Committees

M/S/P Dunn/Johnston - to approve the August 17, 2004 City Council agenda, as amended. (Motion passed 5-0).

2. MINUTES: August 4, 2004

M/S/P DeLapp/Johnston - to approve the August 4, 2004 City Council Minutes, as amended. (Motion passed 4-0-1:Abstain Hunt).

3. PUBLIC INQUIRIES/INFORMATIONAL:

Frank Orsello, Oakdale Lake Elmo Historical Society President, thanked the Council for the \$1,000 donation. He presented a budget proposal to the city for maintenance supplies that would cost approximately \$75 to \$100 a month.

M/S.P Dunn/John - to remit the request to city staff for discussion based on money available in the budget. (Motion passed 5-0.)

4. CONSENT AGENDA:

A. Resolution No. 2004-068: Approve Claims

M/S/P DeLapp/Johnston - to adopt Resolution No. 2004-068, approving claim numbers 211 212, DD211 through DD229 25898 through 26021, that were used for staff payroll dated August 5, 2004, Claim Numbers 26022 through 26059 dated August 17, 2004 in the total amount of \$77,595.27. (Motion passed 5-0).

B. Reschedule November 2, Council Meeting

M/S/P DeLapp/Johnson - to reschedule the November 2, 2004 City Council meeting to Wednesday, November 3, 2004 because of the General Election held on this date. (Motion passed 5-0).

C. Resolution No. 2004-072 Approve Additional Claim

M/S/P DeLapp/Johnston - to adopt Resolution No. 2004-072, approving claim number 26060 payable to the City of Oakdale dated August 17, 2004 in the total amount of \$12,871.48. (Motion passed 5-0.)

5. FINANCE:

A. INFORMATIONAL: Date Change for Public Hearing on Bond Resolution

The Public Hearing on the Bond Resolution will be held on Tuesday, August 31, 2004, 7 p.m. at City Hall. This meeting will be cabled. The Budget Workshop will be held after the hearing.

M/S/P DeLapp/Johnston -- to send the notice to the people, determined by staff, that would be affected by the city center proposal in the Lions Park area and include a sketch. (Motion passed 5-0.)

B. INFORMATIONAL: Monthly Operating Report

Finance Director Bouthilet provided a monthly operating report and reported the budget was on-track.

6. NEW BUSINESS:

7. MAINTENANCE/PARK/FIRE/BUILDING:

A. Update on Building Dept. Activities: Jim McNamara

The Building Official reported that in the month of July there were two new residential permits issued and two new commercial permits issued. He reminded residents that contractors should be state licensed to complete a roof project and permits for fences are now required.

B. Fire Sprinklers – Prairie Ridge Office Park

The City Planner reported in his memo that as a part of the Council's approval action on the site plan for the Prairie Ridge office condos (Highway 5 at Stillwater Blvd.) it was agreed that the developer would be required to only install "dry" fire sprinkler systems. That concession by the City was based on the inability of the City to extend municipal water service to the site in a financially feasible manner due to Oakdale water supply contract issues.

The City has been contacted by the developer advising that the State Fire Marshall will not permit installation of "dry" sprinkler systems due to the false sense of security such installations will project. The Building Official explained since we are not able to service water, the state was very reluctant to approve other than a full live system. A letter was signed by the Building Official and Fire Chief indicating they wave the requirement of the fire sprinkler systems for the Prairie Ridge development due to the fact that the city does not have the ability to furnish the development with the necessary water supply for a fire sprinkler system. This option is given under Section 1306.0060 of the fire sprinkler code providing other requirements are met.

The Council asked that the Planning Commission be made aware of these items when it looks at the impact on the Limited Business area where there is no water.

M/S/P Johnston/John -- to approve an amendment to the site plan approval of Prairie Ridge Office Park deleting the condition requiring the installation of a "dry" fire sprinkler system in its entirety based on the recommendation received from the City Planner and the waiver letter dated August 11, 2004 from the Building Official and Fire Chief. (Motion passed 4-1:DeLapp stated the applicant has gone too far since he previously agreed to put in a water system to accommodate a sprinkler system.)

8. CITY ENGINEER'S REPORT:

A. PUBLIC HEARING: Assessment for Hill Trail N./50th Street:Resolution No. 2004-069

The City Engineer reported the project is nearly complete and only turf establishment work remains. He recommended adoption of the assessment rate of \$2,500.00 per unit (67.5 assessable units) for this project.

Roger Johnson, 8048 Hill Trail N., submitted a notice of objections indicating two of his parcels were combined as a condition of his purchase of a parcel last spring. He has provided Washington County the proper paperwork to combine the parcels, but the County has not completed the consolidation.

Bud Talcott, 8051 Hill Trail N., provided a memo, dated August 17, 2004, of concerns raised with the project.

The City Engineer said that he would meet with the City Attorney to discuss the validity of these concerns and objections.

Mayor Hunt opened up the Public Hearing in the Council Chambers at 7:40 p.m. Council member Johnston objected to the discussed changes in the assessment policy because the City has a well defined assessment policy which has been consistently administered and any objections are satisfied.

Mayor Hunt closed the Public Hearing at 7:42 p.m.

Attorney Filla advised that the Council could postpone adoption or adopt the assessment roll with the exception of the two parcels in question.

M/S/P Hunt/DeLapp -- to postpone consideration of adopting assessments for the reconstruction of Hill Trail N. and 50th Street N. until the September 7th meeting for resolution of the requests by Roger Johnson and Bud Talcott by the City Engineer. (Motion passed 5-0).

B. PUBLIC HEARING: Assessment for 2004 Overlay Project; Resolution No. 2004-070

The City Engineer reported the project is complete and recommends adoption of the assessment rate of \$1,222.00 per unit (21 assessable units) for this project.

Mayor Hunt opened up the Public Hearing at 7:50 p.m. in the Council Chambers
There was no one to speak for or against the assessments.
Mayor Hunt closed the Public Hearing at 7:51 p.m.

M/S/P DeLapp/Johnston – to adopt Resolution No. 2004-070, A Resolution Adopting Assessments for the 2004 Overlay Projected as presented by the City Engineer. (Motion passed 5-0).

C. Proposed 4-Way Stop Highlands Trail/59th Street

The Public Works Council Committee recommended a 4-way stop condition be placed at the intersection of Highlands Trail and 59th Street. In his letter dated August 12th, Tom Prew recommended not to install a 4-way stop as it was not warranted. The recommendation for a 4-way stop condition stems from the neighborhood request for traffic calming. In his opinion, a nuisance stop sign at this location would have very little effect on the overall speed of traffic on Highlands Trail. Making physical changes to the street is the best method to reduce vehicle speed. Prew recommended performing a speed study to determine the scope of the speeding problem.

M/S/P DeLapp/John – to direct the City Engineer to come back with a speed study to determine the scope of the speeding problem on Highlands Trail. (Motion passed 5-0).

D. VFW Ball Field Lights

The City Planner reported the installations of the new lights have been recently completed. A verbal agreement several months ago with an adjacent property owner to provide the city with an easement to run the new power supply unraveled once Xcel presented the actual plan as to where the new power lines/poles would be located on that adjacent property owners land. Several alternative concepts were also presented to the property owners, but none of which could be accommodated. It was finally decided to route the power from a different location and within the Layton Avenue right-of-way, with increased costs the result.

The previous Xcel contract price to bring the power to the ball field was \$9,994.57. The new revised route down Layton Avenue results in an Xcel cost of \$12,205.37 and an increase in the project cost of \$2,210.80.

M/S/P DeLapp/Johnston – to approve an increase in the cost of the VFW ball field lights project by \$2,210.57 to accommodate a revised routing for the required Xcel power supply. (Motion passed 5-0).

9. PLANNING, LAND USE & ZONING:

A. Open Space Concept Plan:Tapestry at Charlotte’s Grove:Resolution No. 2004-071

Senn & Youngdahl are proposing 67 single family homes on 172 acres located east of Lake Jane along 45th Street and west of Hamlet on Sunfish Lake. The City Planner reported that the OP Concept Plan for Tapestry at Charlotte’s Grove (staff dated August 5) both mitigated most of the former OP standards compliance issues, and also addressed many of the issues raised at the Planning Commission’s public hearing. The primary remaining OP standards non-compliance issue (proposed to be a 4/5 Council OP variance) is the proposed encroachment of a public street into the 200 foot OP buffer along a short portion of the project’s west border. The Commission discussed this encroachment at length and offered the Council a recommendation to approve the variance responsive to the purposes and intent of the OP ordinance. There will be a right turn lane to address the safety concern with exiting 45th Street. Connection to the city’s trail system is also being planned.

Council member Dunn voiced her concern about flooding from Sunfish Lake and made the developer aware of VBWD letter and the affect on wetlands.

M/S/P DeLapp/Johnston - to adopt Resolution No. 2004-071 approving the OP Concept Plan for Tapestry at Charlotte’s Grove based on the plans staff dated August 5, 2004 and the Findings/Recommendation of the Planning Commission. (Motion passed 5-0)

M/S/P DeLapp/Johnston – further, that the Council endorses the concept of a minor public street encroachment into the OP buffer as depicted by the August 5th Plan as a 4/5 OP variance in the future OP Development Stage Plan. (Motion passed 5-0).

10 CITY ATTORNEY’S REPORT: None

11. CITY ADMINISTRATOR’S REPORT:

A. Highway 5

The City Administrator reported him, the City Planner and City Engineer met with engineering representatives of Washington County Engineering and the Minnesota Department of Transportation. The following items were discussed.

1. Long term planning, construction implementation and ownership of Hwy 5.
2. Safety issues to be addressed with short term planned maintenance activities, subject to funding.

3. And the development of alternate traffic routing and shared funding plans in the future.

MnDot discussed the Mill/Overlay project scheduled for September 2004, and no possibility (funding) for changes at this time. They also identified other maintenance and safety related upgrades scheduled for the future; pending funding. Tom Prew is working on a proposal to do a bypass study. The City Administrator noted that residents raised traffic issues on the west end, and there will be continued vigilance on speeding by the sheriff's dept. Council member Dunn asked to put on website and cable when the mill overlay project will be started.

B. Mutual Aid for St. Croix Valley and Hudson Fire Station

The Council was provided an agreement for the Lake Elmo Fire Department to provide Mutual Aid to the St. Croix Valley and Hudson Fire Departments. This agreement is key to the area wide response to emergency situations and has been reviewed and recommended for approval by the City Attorney, the Fire Chief and the City Administrator.

M/S/P DeLapp/Johnston – to approve the Mayor, City Administrator, and Fire Chief sign the Mutual Aid Agreement with St. Croix Valley and Hudson Fire Service. (Motion passed 5-0).

C. Disposal of Fire Equipment

M/S/P Dunn/DeLapp – to approve the Mayor, City Administrator and Fire Chief sign an agreement to transfer outdated surplus Air Pack equipment to receiving city. (Motion passed 5-0).

D. Animal Ordinance Amendment

The Community Improvement Committee has studied the current ordinance regulating restraining of dogs. The CIC has recommended that a minor change to the dog ordinance be adopted. The change proposed requires that a dog owner employ an active restraint system if the dog is left outside and the owners are not home.

Rod Sessing and Council member DeLapp questioned the relevancy of the property owner being home or not and why penalize them for when the owner is not home. Council member Johnston stated that his interpretation of the opinion of animal control is that invisible fencing was not efficiently effective and additional protection was a good policy. Ann Smith, Vice Chair of the CIC, stated if the dogs stay in the invisible fence, the property owner will not get fined. This would protect people in the future when the owner is not home all day long. Joan Ziertman, CIC member, stated she would rather see extra enforcement when a person is gone a long time. Council member Dunn said she wasn't convinced that invisible fences were causing a problem in the city and was not prepared to make a change to the dog ordinance.

Animal Control Officer Kathi Pelnar provided a year end report listing the number of dogs picked up wearing invisible fence collars. For both 2003 and 2004 that number was four dogs. The Council wanted to talk with the ACO to try to understand the actual magnitude of the problem.

M/S/P Johnston/ Dunn – to invite Kathie Pelnar, ACO, to come to the September 7th Council meeting to discuss animal control under the Public Information section of the meeting agenda. (Motion passed 5-0).

E. Purchase offer for 3585 Laverne Avenue

Council member Johnston stated he was in favor of a city center and buying this property in question because it is contiguous to the Lions Ball Field. He suggested inviting residents that would be affected by a proposed new city center to a public hearing. The City Administrator added the City is looking at alternative locations for the Lake Elmo Library and this property could serve that purpose until a city center has been decided.

M/S/P Johnston/John - to authorize the Mayor to sign the purchase agreement for the property located at 3585 Laverne Avenue, Lake Elmo, Minnesota; and acknowledgments of receipt of disclosure of sewage treatment system, supplemental disclosure regarding individual On-Site System and Seller Property Disclosure Statement. (Motion passed 5-0.)

F. Vacation of 55th Street

M/S/P Johnston/Dunn – to send this item to the Planning Commission for study and review based on the recommendation of the Public Works Council Committee. (Motion passed 5-0.)

G. Council Committees

Attorney Filla provided a draft resolution defining the duties of the three established City Council Committees.

M/S/P John/Dunn – to adopt resolution No. 2004-074, A Resolution Relating to Council Committees (Motion passed 5-0.)

12. CITY COUNCIL REPORTS:

A. Mayor Hunt: Board of Directors Vacancies; LMC 2004 Annual Conference

Mayor Hunt explained it would be a fantastic opportunity to have a booth at the conference to contact other cities at the LMC 2004 Conference held in Duluth. Council

member DeLapp added that we need information, such as, MN Design Team information, pictures of developments and the proposed city center, to attract their interest.

Mayor Hunt and Council members Dun, DeLapp and Johnston indicated they would be attending the LMC Conference.

M/S/P Johnston/John -- to authorize \$700 to reserve a booth at the LMC conference. (Motion passed 5-0.)

Board of Directors Vacancies:

At the Annual Meeting in Duluth on October 11th, the membership will elect four new members to the Board of Directors. Council member Johnston indicated he would be interested in the nomination, but pulled his name out of consideration when Mayor Hunt indicated he would also be interested.

M/S/P DeLapp/Dunn -- to submit Lee Hunt's name for nomination to serve on the LMC Board of Directors. (Motion passed 5-0).

Council member Dunn attended the VBWD meeting to listen to the discussion regarding a proposal for a market place and super target on 70 acres along highway 5 bordering Oakdale and Lake Elmo. Dunn said resident, Debbie Dean, asked excellent questions on water quality and runoff and how it relates to more traffic on Highway 5. The proposal was passed by the VBWD.

Council member Johnston said he was the last customer at the pancake breakfast held by the Fire Department. Dean asked about the status of the City's diseased tree program. The Administrator responded this item will be placed on the Public Works Council Committee agenda. Council member John suggested looking into a tree specialist on staff and the cost associated with such an appointment.

B. Council Member John: Discussion of Smoking Ban

Council member Wyn John said the Public Health Council Committee reflected positive on a smoking ban and wanted to get the Council's response on this proposal. He aid if the City doesn't take a stand one way or another to identify their position, then there would not be any weight at all for the Washington County to legislate for us. Wyn introduced the following motion because he felt quite strongly about a smoking ban.

M/No Second John/No Second -- to direct the staff to prepare an ordinance prohibiting smoking in a public place where two or more people could gather.

Council member Dunn stated this is not something we should be wasting another minute on. Council member Johnston said he was in favor of an approach that would do the most good while doing the least amount of harm. He supported the concept of a smoking ban and the idea of a regional smoking ban.

Mayor Hunt suggested that they send a letter of support to the group being spearheaded by St Paul Mayor Randy Kelly, Minneapolis, who is coordinating a regional approach and offer to participate in the discussions.

M/S/P Johnston/John - to send a letter of support to Mayor Kelly offering to participate in the discussion for support of the program and send a letter to the Washington County Board to encourage them to adopt a countywide smoking ban .(Motion passed 4-1Dunn the County is not interested in a county wide ban)

Council adjourn the meeting at 9:42 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2004-068 Approve Claims

Resolution No. 2004-069 Assessments for Hill Trail N./50th Street TABLED

Resolution No. 2004-070 Assessment for 2004 Overlay

Resolution No. 2004-071 Tapestry at Charlotte's Grove Concept Plan

Resolution No. 2004-072 Additional Claims