

MINUTES APPROVED: April 19, 2005
LAKE ELMO CITY COUNCIL MINUTES

APRIL 5, 2005

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 - B. OP Concept Plan – Farms of Lake Elmo; Resolution No. 2005-038
 - C. Minor Subdivision: Olinger, 9057 Lake Jane Trail; Resolution No. 2005-037
 - D. Section 520 Site Plan – 11051 Stillwater Blvd., Resolution No. 2005-039
 - E. Zoning Ordinance Text Amendment-Home Occupation in Rural Residential Zoning, Ordinance No. 97-154
 - F. CDBG – Award Contract for Cimarron Gas Service Replacements
 - G. Update on Comprehensive Plan
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT
12. CITY COUNCIL REPORT:

Mayor Johnston called the Council meeting to order at 7 p.m. in the Council chambers.
PRESENT: Conlin, Smith, Johnston, Johnson, City Engineer Prew, City Attorney Filla, Finance Specialist Hristo Galiov, Fire Chief Malmquist, City Planner Dillerud and Administrator Rafferty. ABSENT: Council member DeLapp

1. AGENDA

Attorney Filla reported he received a 13 page letter and exhibits from Lakewood Evangelical Free Church Tuesday afternoon which requires more time to review if the applicant is willing to approve an extension for two weeks. Request 9A between 2 & 3, Add Items: 11A. Reroute of Hwy 5, 11B. Meeting with Fields HOA and Bob Engstrom, 11C., 12A. Proposal requested assisting Council performance of the City Administrator

M/S/P Johnson/Smith - to approve the April 5, 2005 City Council agenda, as amended. (Motion passed 4-0).

2. **MINUTES:** March 15, 2005

M/S/P Johnson/Smith - to approve the March 15, 2005 City Council minutes, as amended. (Motion passed 4-0).

3. **PUBLIC INQUIRIES/INFORMATIONAL:**

A. Public Inquiries

Tim Mandel, 2479 Lisbon Avenue N., asked to go on record against the trail planned for his development, Eden Park. He has a concern for the safety of residents because this would be a public trail and access would go over private property. Residents do not want trails in their back yards on small lots.

Administrator Rafferty responded that no formal action had been taken by Council on the proposed trail plan. There will be a public hearing on the trail plan after the Parks Commission has a complete format and then the plan proceeds to the Planning Commission for its review and recommendation.

Gloria Knoblauch asked if the street could be named Friedrich Road in the proposed development, Farms of Lake Elmo. She said residents would want road to go through someday and asked if the developer could pay the assessments.

Jim Blackford indicated a public facility should be in a commercial area and not any where close to Sunfish Park. He added the Council won't let a church go in a residential area, but would stick a maintenance garage in a park. He said he talked to Mike Lynsky who has 33 acres of commercial land for sale close to where City Hall is located.

Jim Lund said he has served on the Parks Commission and such groups worked hard to preserve this land and we owe them a big debt of gratitude. He said there was a verbal contract apparently with a covenant that the land be used for recreational facilities. The definition of recreational facilities does not include a maintenance facility.

Ed Nielsen presented the park bond brochure and noted the City should have done their homework and reviewed all this information. He suggested placing all the City parks in a land trust.

Merle Olson said Lehart Friedrich was asked to sell the property and the purchase of this land was for park purposes. He said the past councils have pushed hard to preserve rural Lake Elmo. He asked the Council to please continue using Sunfish Park for park purposes.

Judy Blackford read a notice from resident, Rosalie Wahl, stating such a citing of a maintenance building on park land would be a violation of power. Without legal documentation for using this land only for park purposes may frees the City from some legal obligation, it is not good enough for her. Ms. Blackford said she served 5 years on

the Parks Commission and asked the Council to look at the intent of the documents presented.

David Steele said he is a member of the Park Commission and the Commission was asked to deliberate with no background information. A facilities committee was to be established and that has not happened. He asked what is the Council saying to the residents and what legacy are you leaving after 31 years this land have been preserved.

Joe Kiesling stated the maintenance facility has been bouncing around for years. The City has to have a new maintenance building and a water tower. He asked who wants to pay for the open land and preserve it. The developers buy the land from the farmers and people are coming into the city.

1. Arbor Day Proclamation

Kathy Widin, Forestry Consultant and Lake Elmo Parks Commission recommended that the Council support the Arbor Day Proclamation for 2005 and an application for Tree City USA award.

MAYOR JOHNSTON PROCLAIMED THE MONTH OF MAY, 2005 TO BE ARBOR MONTH IN THE CITY AND MAY 29TH AS ARBOR DAY.

2. Planning Commission Appointment

At its February 15, 2005 meeting, the City Council appointed Rod Sessing to the Planning Commission for sixty days. The 60-day appointment will be expiring so staff asked for Council direction.

Mayor Johnston indicated the Council should follow the recently adopted appointment policy for Commissions. Council member Conlin noted there is a value in members that have worked on past comprehensive plans and the process and would like to keep the continuity. Council member Johnson agreed that it is valuable as a team to finish this process and noted it would be hard enough for someone new to come in at this time.

M/S/F Conlin/Johnson – to extend Rod Sessing’s Planning Commission term for an additional 90 days. (Motion failed 2-2:Smith, Johnston.)

M/S/F Johnston/Smith – to follow the adopted appointment policy for Commissions and advertise the vacancy and interview applicant in two weeks. (Motion failed 2-2: Conlin, Johnson.)

Council member Smith indicated Rod Sessing’s term would expire in 120 days which would bring his term into May; therefore, the Council could address this item at the first Council meeting in May.

3. Announce Board of Review

Mayor Johnston announced that the Lake Elmo Board of Review will meet at City Hall, May 4, 2005, between the hours of 4:00 and 6:00 for the purpose of reviews and correcting the assessment of said Real Estate for 2005. The Council received the 2005 Assessment Report.

4. CONSENT AGENDA:

A. Resolution No. 2005-034: Approving Claims

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-034, A Resolution Approving Claim Numbers 248, 249, DD373 through DD385, 27060 through 27086 that were used for Staff Payroll dated March 17th, 2005; 250, 252, DD386 through DD395, 27088 through 27099, which were used for Staff Payroll dated March 31st, 2005; claims 251, 27100 through 27151, in the total amount of \$147,793.85. (Motion passed 4-0).

5. FINANCE

6. NEW BUSINESS

7. MAINTENANCE/PARK/FIRE/BUILDING:

A. Update on Fire Department Activities: Fire Chief

Fire Chief Malmquist reported that two new applicants are starting on April 12th, but the department needs members. The Chief updated the Council on the latest department activities and recognized the captains for doing a great job introducing the duty crew.

8. CITY ENGINEER'S REPORT:

A. Water Tower Storage Tank, CUP

At the last Council meeting, staff was asked to review additional sites for the Public Works/Parks operations and the proposed Water Tower. City staff and the city engineer have worked to finalize facility locations for the Water Tower and Public Works/Parks operation.

In his memo dated March 24, 2005, the city engineer looked at alternate sites for both the public works building and water tower. The sites listed were

1. City Owned Property within the Closed Landfill Site
2. Washington and Ramsey County Owned Property South of the Closed Landfill Site: An additional 2,000 feet of 16-inch water main would need to be extended to the site along Jamaca Avenue at an additional cost of \$160,000.
3. City Owned Property in Sunfish West: Additional cost would be about \$200,000.
4. 3M Property – The additional estimated cost would be \$460,000.
5. Common Ground Church Property for water tower: The Church was not interested in selling more land for a maintenance building.

The City Planner drafted a report for the March 14th Public Hearing held by the Planning Commission. At that meeting, the Planning Commission recommended denial of the Conditional Use Permit for a Public Works/Park Maintenance Building and a Water Storage Tower in Sunfish Park.

The City Engineer reported when he and the City Administrator met with the officials from the Minnesota Pollution Control Agency they were told a water storage tank on legs could be built, but no new buildings would be allowed on the City owned property within the closed landfill site. Ed Nielsen added that he talked with Judith Hunter, Washington County, where her area is the Lake Jane Landfill. Mr. Nielsen advised the Council they may want to purchase this property at a reasonable price.

The Council asked staff to continue to review the tower sites proposed and to look at alternate sites for the water tower location.

B. Public Works/Parks Facility, CUP and Variance

The City Administrator presented background on the history of the City purchasing Sunfish Lake Park. He reported he had talked to Jim Lugar, Washington County, about placing a maintenance facility next to the County's garage in the Regional Park, but the County was not interested.

Susan Dunn asked the City to consider placing the park into the Minnesota Land Trust because Mr. Friedrich wanted this land protected. She suggested the Council look at a commercial area for the location of the maintenance garage and review the minutes of why the residents did not want the facility in the Old Village area.

Mayor Johnston stated the entire concept to place a facility in Sunfish Park came from the old council and this Council is following through with the suggestion.

Council member Conlin said she was on the council 10 years ago and there was discussion about needing a maintenance facility then. There was a need then for a building and the residents didn't want it in the location that was suggested. There is a real need now and again; the people don't want it in this location. Conlin said she did not believe this is a good use for park land. As the city grows, it will need all its parks later.

Council member Smith stated the park should be used for parks purposes only. She said she could not in good conscience vote to place the maintenance facility there.

Council member Johnson didn't think the staff had all the homework in place because they did not look at commercial property.

M/S/P Conlin/Smith - to adopt Resolution No. 2005-035, to deny granting a Conditional Use Permit and Variance for a Public Works Facility located in Sunfish Park. (Motion passed 3-1 Johnston: He would rather the City have a solid site identified before a vote was cast)

C. Resolution No. 2005- 036: Award Bid for Phase I of the Water System Interconnect Project

In his letter dated March 24, 2005, the City Engineer reported bids were opened on February 18, 2005 for this project. The City engineer recommended awarding the contract to the lowest bidder, Chris Riley Utilities, Inc. for their bid of \$348,626.18.

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-036, A Resolution Awarding the bid for the Phase I of the Water System Interconnect Project to Chris Riley Utilities in the amount of \$348,626.18. (Motion passed 4-0).

9. PLANNING, LAND USE & ZONING:

A. Preliminary Plat, Comprehensive Plan Amendment, Rezoning, Conditional Use Permit and OP Concept Plan – Deer Glen/Evangelical Free Church (Continuation)

Attorney Filla reported he received a 13-page document from the representatives of the church late this afternoon and has not had time to review the submittals. He asked the applicant if they would agree to a two week extension of their application. Chuck Palmer, the applicant, said he would agree to the two week extension as long as it had no impact on the merits of the case.

M/S/P Smith/Johnson - to approve the extension for two weeks agreed to by the applicant, Chuck Palmer. (Motion passed 4-0.)

B. OP Concept Plan – Farms of Lake Elmo

This is an OP Concept Plan for Earl Friedrich Farm for 30-single family building lots on a site of 84 acres. The Planner explained the three lots at the southwestern edge of the site may not meet buffer requirements, but an adjoining parcel is eligible for OP development. The zoning ordinance does not provide for monument signs, so the letters have to be taken down and the wall left up.

Tim Freeman, Surveyor with FFE, indicated these lots sizes match or exceeds neighboring properties and only a few houses are close. Their plan would have the existing berm cut in with houses and planted above with additional buffering and screening. Freeman said the intent of the ordinance is met with 100 feet of buffer, and that they worked hard to keep each lot not having a neighbor across or behind them.

The Planner pointed out that the Planning Commission's recommendation deleted the staff condition #1 requiring the developer to install a full 200 foot OP buffer between the house pads of the westerly 3 lots and the west project property line. By implication, a 100 foot buffer with appropriate landscaping would be the expectation for the Development Stage Plan, but a 4/5 City Council waiver will be necessary to adopt that design strategy.

M/SP Conlin/Johnson - to waive the 200 foot buffer requirement and require the 100 foot buffering setback standards to the west, south and east based on the findings of the size of lots, adjoins the majority of the Regional Park, trees are planted on the top and the elevation difference. (Motion passed 4-0).

M/S/P Johnson/Conlin - to adopt Resolution No. 2005-038, as amended, A Resolution Approving the OP Concept Plan of Farms of Lake Elmo per the plans staff dated March 18, 2005, and subject to conditions #1-#3, of the Staff Report of March 18, 2005 and a 4th condition that the nameplate be removed from the rock wall at the entrance. (Motion passed 4-0).

C. Minor Subdivision: Olinger, 9057 Lake Jane Trail

The City Planner reported that the Planning Commission recommended approval of this application to divide an existing 16 acres parcel into parcels of 2.04 acres, .75 acres, and 13.3 acres. This application is responsive to the Comprehensive Plan amendment actions and a rezoning that was approved by the Council in 2004. A condition of the approval recommendation is that the .75 parcel be either combined with the parcel to the south (across Lake Jane Trail), or that a "No Build" covenant be placed on the title.

M/S/P Johnson/Johnston - to adopt Resolution No. 2005-037, A Resolution approving the Minor Subdivision for Daniel and Jean Olinger at 9057 Lake Jane Trail, per plans staff dated March 8, 2005, and subject to the conditions of the March 8, 2005 Staff Report. (Motion passed 4-0).

D. Section 520 Site Plan – 11051 Stillwater Blvd.

The City Planner reported the Planning Commission recommended approving this application to modify the site and make a building addition that nearly doubles the size of this existing 2,057 square foot structure. Since the additions will not double the size of the structure, the GB Architectural Standards do not apply. The two issues that form conditions to approval are proper placement of the pylon sign and the City Engineer's recommendation that a septic site be identified on the site. The Building Official pointed out that this building must be sprinkled.

M/S/P Smith/Conlin - to adopt Resolution No. 2005-039, A Resolution approving a Section 520 Site Plan for site modifications and a 2,046 square foot addition to 11051 Stillwater Blvd. per plans Staff dated March 9, 2005, and subject to the conditions of the Staff Report. (Motion passed 4-0).

E. Zoning Ordinance Text Amendment-Home Occupation in Rural Residential Zoning

The City Planner reported the Planning Commission conducted a Public Hearing and adopted a recommendation to approve an amendment to the text of the RR zoning district to permit Home Occupation as an Accessory Use. The Commission considered the reports of the City Attorney and City Planner on the matter and concluded that the amendment amounts to a code housekeeping item.

M/S/P Johnson/Smith - to adopt Ordinance 97-154, An Ordinance Amending Chapter 300 of the City Code to add "Home Occupation" as an Accessory Use in the RR zoning district. (Motion passed 4-0).

F. CDBG – Award Contract for Cimarron Gas Service Replacements

The City Planner reported staff solicited proposals for Cimarron gas service line replacement from 10 plumbing firms. The single bid that was received was reviewed and accepted by the Building Official.

The Council was disappointed at the price because this would mean that the natural gas lines of approximately one-third of the units would be replaced, but several Council members agreed the project needed to get started.

M/S/P Johnston/Johnson - to accept the proposal submitted by Murr Plumbing for Cimarron Gas Service Replacement. (Motion passed 3-1:Smith:Disappointed that there was only one bid with a price that would only replace the gas lines for one-third of Cimarron units.)

G. Update on Comprehensive Plan

Planner Dillerud stated he will bring the Planning Commission's recommendation on the amendments to the Comprehensive Plan responsive to the City/METC Memorandum of Agreement to the next Legislative Council Committee meeting.

10. CITY ATTORNEY'S REPORT:

Attorney Filla reported he had not received any correspondence from the Attorney representing the Ziertmans.

11. CITY ADMINISTRATOR'S REPORT

A. By Pass TH5 Study

Mayor Johnston requested discussion of redirection of Highway 5 be placed on the April 12th council committee meeting so the Council is informed on the study.

B. Meeting with Fields HOA and Bob Engstrom

The City Administrator indicated that the representatives from the Tana HOA should have been asked to sit in the meeting. The development of the park was discussed. The Parks Commission approved a plan for the park which is still is going to be completed. He said the original proposal seems acceptable to the residents at the meeting. Once the plan is finalized, he will contact all the residents involved.

C. Proposal Requested Assisting Council Performance of the City Administrator

Mayor Johnston suggested having a workshop with Jim Brimeyer to provide objectives in evaluating the performance of the City Administrator. This proposal would cost approximate \$750 and would set objectives where the Council would become more

formally involved in our personnel responsibility. The Council decided to place this item on the Human Resources Council Committee.

D. Fire Study Report

The Fire Study Report was passed out and will be an agenda item on the April 12th Council Committee meeting.

12. **CITY COUNCIL REPORT:**

Mayor Johnston reported he met with the Financial Director of the Stillwater School District, who was receptive on planning in a proactive manner. He is meeting with people from the Guardian Angels Church on expansion and wants to know about future growth in Lake Elmo. He also noted that the library is near approval as the Library Board recommended to Washington County Board to approve a lease on the Gathering Garden building. He said he was informed there is an effort to establish a rotary club and encouraged anyone to attend the meeting at the Lake Elmo Inn a week from Wednesday.

Council member Conlin asked that the Parks Commission review the suggestion of placing city parks in a land trust so park land can be used as parks. This item will be placed on the April 12th Council Committee meeting.

Council member Smith suggested taking some of the money from the sale of the Berschen property and uses it to purchase property for a maintenance facility.

Council adjourned the meeting at 11 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2005-034 Claims

Resolution No. 2005-035 Deny CUP for Public Works Facility in Sunfish Park

Resolution No; 2005-036 Award Bid for Phase I of the Water System Interconnect Project to Chris Riley Utilities

Resolution No. 2005-037 Approve Minor Subdivision Dan Olinger, 9057 Lake Jane Trail

Resolution No. 2005-038 Approve the OP Concept Plan of Farm of Lake Elmo

Resolution No. 2005-039 Approve Section 520 Site Plan for addition to 11051 Stillwater Blvd.

Ordinance No. 97-154 Amend Chapter 300 add Home Occupation in the RR Zoning District