

**LAKE ELMO CITY COUNCIL MINUTES
JANUARY 21, 2014**

**CITY OF LAKE ELMO
CITY COUNCIL MINUTES
JANUARY 21, 2014**

Mayor Pearson called the meeting to order at 7:00 pm.

PRESENT: Mayor Mike Pearson, Council Members Wally Nelson, Justin Bloyer, and Mike Reeves.

ABSENT:

Also Present: City Administrator Zuleger, Community Development Director Klatt, City Engineer Griffin, Finance Director Bendel, and City Clerk Bell.

PLEDGE OF ALLIGENCE

APPROVAL OF AGENDA

Council Member Smith requested that Items 5 & 8 be pulled for discussion.

MOTION:** Council Member Nelson moved **TO APPROVE THE JANUARY 21, 2014 CITY COUNCIL AGENDA AS AMENDED.** Council Member Smith seconded the motion. **MOTION PASSED 5-0.

ITEM 1: ACCEPT MINUTES

THE JANUARY 06, 2013 CITY COUNCIL MINUTES WERE APPROVED AS PRESENTED BY CONSENSUS OF THE CITY COUNCIL.

COUNCIL REPORTS:

Mayor Pearson: holding off on Public Safety Committee appointment until committee can review.

Council Member Reeves: no report.

Council Member Bloyer: no report.

Council Member Nelson: no report.

Council Member Smith: no report.

PUBLIC INQUIRY/COMMENTS:

Library Director Linda Orsted spoke about new e-resources available at the Lake Elmo Library; on 1/28 at 6:30 pm Bonnie Blodgett speaking on designing a MN garden; Knit Nights on Thursdays from 6-8 pm; Library is looking for board applicants.

ITEM 2: BOARD OF ADJUSTMENT HEARING, CASE 2014-01

Beth & Richie Springborn – Driveway Ordinance Appeal

Rich Springborn 8970 55th St. N. spoke about his driveway permit and his desire to waive the hot-mix required by city code. Community Development Director Klatt gave summary of staff position. Stated requirements were already in ordinance at time of permit. It was noted that standard applies only to the portion in the Right of Way. Standard is consistent with other cities practices. Standards are also specifically included in City engineering design standards. Report of Building Official Chase provided that Hartman Homes, who actually obtained permit, was aware of standard.

Council Member Bloyer asked about importance of paving to ROW. City Engineer Griffin said ROW is the common point for all properties. City and smaller utilities are doing work in the ROW and most of what city is protecting is in the ROW. A large reason for not having gravel is that gravel washes out and increased maintenance. Paved surface does better job of retaining material.

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Council Member Nelson asked about why Hartman Homes pulled permit and the Springborns are here. It was explained that Hartman Homes was the general contractor building the home. Sub-contractors do not pull permits individually on new homes. The Springborns did the driveway themselves.

Council Member Smith asked about other driveways that would not comply. She does not want to force the Springborns to have to comply now when others do not. Mr. Klatt explained that other driveways would be considered legal non-confirming uses and not required to comply until they are changed.

Council Member Reeves noted that just the apron is being discussed. He also pointed out another benefit to pavement is to protect any abutting road. Mr. Griffin confirmed this. The paving reduces the tracking of mud etc on the road. Mr. Klatt noted Council is being asked to consider the interpretation of the city code. If Council disagrees with staff interpretation of code, it will have impact on future applications. Whether the code will need to be changed was discussed. Mayor Pearson asked for confirmation that Hartman Homes was aware of the hot-mix requirement.

Mr. Nelson asked for Mr. Griffin's opinion on the material. Mr. Griffin explained that it is a milled material and used as a base in the city. It is more like a gravel. However the city then adds the hot mix top layer pavement. Mr. Nelson asked Mr. Springborn about why he used the material. He got it free. Mr. Springborn claimed that it was a better material than class 5 gravel.

Mr. Bloyer asked why Sunfish Lake Entrance used same millings. Mayor Pearson confirmed that new millings were used. Mr. Zuleger stated that the city used the same type of milling like Springborn because they were free. He added that the City is intending on paving the entrance for the reasons staff claims.

Ms. Smith stated that she does not think it is appropriate to punish the petitioner if they complied with the standard they were given. In their opinion, they did comply with the information staff provided, and she believes they are honorable.

Mr. Springborn stated that it was an existing driveway for over 100 years and it has lasted so far.

City Administrator Zuleger noted that the negotiations have been an amicable.

Mr. Reeves clarified that the issue is not the entire driveway, just the apron.

Mr. Springborn claimed T.A. Schifsky's quoted over \$3,550 for a 15x40 apron.

Mr. Reeves thinks that it would set a bad precedent to reverse staff decision. Permit included language at time permit was pulled.

Mr. Bloyer said it was not his intent to include a ROW larger than 5 feet. The driveway was existing.

MOTION: Council Member Smith moved TO APPROVE THE SPRINGBORN APPEAL. Council Member Nelson seconded the motion.

Council Member Smith also believes that the ordinance is vague and the driveway is an existing driveway. Council Member Bloyer wants the language amended, so is not concerned with precedent.

Mayor Pearson is opposed to the motion. A farm easement is not the same as a driveway. It is not the city's responsibility to transfer the info from the builder to another party. Have to believe that the builder should have known. City needs to protect the roads and this is part of doing that. Mr. Bloyer said that if the position is to hold the residents to this standard, then City needs to lead by example vis-à-vis Sunfish Lake Park. Mr. Reeves pointed out that the City is going to do the same to the park that it is demanding from the Springborns. Mr. Reeves is not in support of approving appeal.

Council Member Nelson doesn't want to punish petitioners for what he believes is an honest mistake. He wants the paved requirement to be only five feet.

Council Member Bloyer called the question. ***MOTION PASSES 3-2 (PEARSON/REEVES – NAY).***

CONSENT AGENDA

3. Approve Payment of Disbursements and Payroll in the amount of \$1,282,261.76

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4. Accept Financial Report dated December 31, 2013
5. Accept 2013 Year-End Building Report dated December 31, 2013
6. Section 34 Water and Sewer Utility Extension Improvements – Pay Request No. 3
7. Lake Elmo Sewer Infrastructure Improvements: I-94 to 30th St. – Pay Request No. 4
8. Approve Predictive Index Hiring Tool

MOTION: (No Movant) TO APPROVE THE CONSENT AGENDA AS AMENDED. No Second. MOTION PASSED 5-0.

ITEM 5: ACCEPT 2013 YEAR-END BUILDING REPORT DATED DECEMBER 31, 2013

Council Member Smith noted that the actual number of new homes being built was not a large number. Development is moving pretty slow.

MOTION: Council Member Smith moved TO ACCEPT YEAR-END BUILDING REPORT DATED DECEMBER 31, 2013. Council Member Bloyer seconded the motion. MOTION PASSED 5-0.

ITEM 8: APPROVE PREDICTIVE INDEX HIRING TOOL

Council Member Smith is opposed to approving this item. Her opinion is that it is a complete waste of money. She noted she was also against spending money on the park survey. She cannot justify \$3,000 of taxpayer money.

City Administrator Zuleger provided overview of why staff is asking for it. The index fits the right person to the job. Council Member Reeves stated that he has used them and praised the benefits. He stated that it reduces turnover and lost productivity. His opinion is that it is actually a responsible use of taxpayer money. He claimed “forward looking” organizations use these tools.

Mayor Pearson acknowledged that turnover is hugely expensive. He thinks that this is a good use of taxpayer money. Council Member Nelson concurred with Mayor Pearson and Mr. Reeves’ assessments.

MOTION: Mayor Pearson moved TO APPROVE THE EXPENDITURE OF \$3100 FOR THE SUBSCRIPTION TO THE PREDICTIVE EMPLOYEE EVALUATION PROGRAM WITH THE FUNDS COMING FROM THE 2014 CONTINGENCY FUND. Council Member Reeves seconded the motion. MOTION PASSED 4-1 (SMITH - NAY).

REGULAR AGENDA

ITEM 9: COUNCIL MEETING DATE CHANGE

No discussion.

MOTION: Council Member Smith moved TO APPROVE MOVING THE TUESDAY, FEBRUARY 4, 2014 COUNCIL MEETING TO WEDNESDAY, FEBRUARY 5, 2014, DUE TO PRECINCT CAUCUSES. Council Member Nelson seconded the motion. MOTION PASSED 5-0.

ITEM 10: INWOOD BOOSTER STATION AND TRUNK WATERMAIN IMPROVEMENTS – PUBLIC HEARING; AUTHORIZE PLANS AND SPECIFICATIONS; AWARD ENGINEERING CONTRACT; RES. 2014-07

City Engineer Griffin gave overview of the project and the scope of the work. Project will begin near 26th St. and end at Eagle Point Blvd. It will include a booster station. Also presents the opportunity to pass through Parkview Estates and provide that neighborhood with clean water. It also will allow the City to use its wells to provide City water instead of purchasing water from Oakdale. It will provide water to the section 34 area developments. Twenty-five properties are assessable. Total cost is estimated at \$3,840,000.

Parkview Estates was discussed. Mr. Griffin said it does not add any cost to city to run by Parkview, but costs to residents for connecting later would be much higher if not included at this time. Future estimated assessments will be about \$23,000 instead of \$16,500. Council Member Smith asked about number of

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GAC filters. Mr. Griffin said he thinks there are about 19 on the filters in the entire area. It was discussed that the PFC level spikes can change over time.

Mr. Griffin explained the proposed assessments and estimated costs to residents. An overview of the project schedule was provided. Mr. Griffin noted that the capacity is limited until installation of water tower.

MOTION: Council Member Smith moved **TO OPEN PUBLIC HEARING**. Council Member Nelson seconded the motion. **MOTION PASSED 5-0. Public hearing opened at 8:16 pm.**

Mark Klosner 1827 Ivory Ave. N. asked that city bypass Parkview Estates. His water has been tested and no issues for his well. His all-in would be about \$25,000. He does not see the value in having city water.

Jim Williams 1805 Ivory Ave. N. on GAC filter. He might have changed his mind about purchasing home had he known about the water issues. His quality is good right now, but he is on a filter. He is in favor of bypassing neighborhood.

Mayor Pearson noted that wells in this area would be more expensive to install.

Dan Deeb 1680 Ivory Ave. N. is on a filter as well. He is opposed to including his neighborhood.

Al Eberhard 2298 Inwood Ave. N. speaking on behalf of Eberhard family. His property is agricultural, and he is against the pumping station being on the property. He is continuing to negotiate with City staff. Does not want eminent domain resorted to. Opposition is limited to pumping station.

Peter Bartosh 1697 Ivory Ave. N. is opposed to project. Has the GAC filter. Believes there are other options to bring clean water in to area. He will take his chances with the possibility of his well failing.

David Nelson 1757 Ivory Ave. N. is opposed to project in neighborhood.

Jeff Iverson 1663 Ivory Ave. N. wants neighborhood bypassed.

Steve Ortman 1668 Ivory Ave. N. is in favor of bypassing neighborhood. He urged council to place booster station in location that creates sufficient pressure for system.

MOTION: Council Member Smith moved **TO CLOSE PUBLIC HEARING**. Council Member Reeves seconded the motion. **MOTION PASSED 5-0. Public hearing closed at 8:27 pm.**

Mayor Pearson asked about the design/specs and changing the route. Mr. Griffin explained that Council can amend resolution to not include Parkview estates.

Council Members Reeves and Bloyer thanked residents for coming. Both members respect the residents' input.

MOTION: Council Member Smith moved **TO ADOPT RESOLUTION NO. 2014-07, ORDERING THE INWOOD BOOSTER STATION AND TRUNK WATERMAIN IMPROVEMENTS AND THE PREPARATION OF PLANS AND SPECIFICATIONS NOT INCLUDING PARKVIEW ESTATES**. Council Member Nelson seconded the motion. **MOTION PASSED 5-0.**

Mr. Griffin explained that MSA Professional Services was selected as engineering support. Why the lowest bid was not selected was discussed. Mr. Griffin explained that the best value contractor was selected.

MOTION: Mayor Pearson moved **TO APPROVE THE UPDATED PROFESSIONAL ENGINEERING SUPPORT SERVICES CONSULTING POOL, THEREBY ADDING MSA PROFESSIONAL SERVICES, INC. IN THE AREA OF GENERAL MUNICIPAL SERVICES**. Council Member Reeves seconded the motion. **MOTION PASSED 5-0.**

MOTION: Council Member Bloyer moved **TO AWARD A PROFESSIONAL ENGINEERING DESIGN AND CONSTRUCTION SUPPORT SERVICES CONTRACT TO MSA PROFESSIONAL**

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SERVICES, INC. IN THE NOT TO EXCEED AMOUNT OF \$200,772. Council Member Smith seconded the motion.

The “not to exceed” amount being lowered was discussed if the project cost is less. Mr. Griffin stated it will be lower due to lesser scope of project. **MOTION PASSED 5-0.**

Point of privilege taken by Council Member Bloyer. 5 minute recess. Recessed at 8:40pm

ITEM 11: WELL NO. 4 CONNECTING WATERMAIN IMPROVEMENTS – APPROVE PLANS AND SPECIFICATIONS; RESOLUTION 2014-08

City Engineer Griffin provided summary of the project and the legislative history. Total estimated cost is: \$617,000. Post-design cost is: \$447,000. The proposed schedule was explained. Project will be finished hopefully in June 2014.

MOTION:** Council Member Smith moved **TO APPROVE RESOLUTION NO. 2014-08, APPROVING THE PLANS AND SPECIFICATIONS AND ORDERING THE ADVERTISEMENT FOR BIDS FOR THE WELL NO. 4 CONNECTING WATERMAIN IMPROVEMENTS.** Council Member Reeves seconded the motion. **MOTION PASSED 5-0.

ITEM 12: LAKE ELMO AVENUE TRUNK WATERMAIN IMPROVEMENTS – APPROVE ENGINEERING DESIGN AND CONSTRUCTION SUPPORT SERVICES CONTRACT

City Engineer Griffin provided summary of the project and the legislative history, feasibility study, public improvement hearing, and water funding workshop. He noted that TKDA is recommended due to their familiarity with the corridor.

***MOTION:** Council Member Reeves moved **TO APPROVE A PROFESSIONAL ENGINEERING DESIGN AND CONSTRUCTION SUPPORT SERVICES CONTRACT FOR THE LAKE ELMO AVENUE TRUNK WATERMAIN IMPROVEMENTS TO TKDA, INC. IN THE ESTIMATED NOT TO EXCEED AMOUNT OF \$66,500.** Council Member Bloyer seconded the motion.*

Council Member Bloyer asked how much money would be saved if no stubs were installed. Mr. Griffin explained that no real savings in design. Council Member Nelson asked when the appropriate time would be. It was explained that any reduction in cost would be at construction. It was noted that because this was City initiated, a 4/5 vote will be required for the actual ordering of project. The shelf life is 5-10 years or until something substantial changes in the corridor. Council Member Reeves thanked Cathy for all the financial information provided.

MOTION PASSES 5-0.

ITEM 13: COMPREHENSIVE PLAN AMENDMENT - RAD-ALT TO RAD – 9434 STILLWATER BLVD.; RES. NO. 2014-09

Community Development Director Klatt provided summary of the history of the comp plan amendment request. Mr. Klatt provided clarification of what the particular zoning designation entailed. State statute and city code require that the Planning Commission review the change prior to Council acting. Mr. Klatt gave overview of the site property involved.

Mr. Klatt noted that future forecasts may involve eliminating RAD-ALT due to lower density estimates. Noted that staff originally rec'd denial of change back in 2010. Planning Commission disagreed and recommended approval. The City Council at the time agreed. Mr. Klatt explained the public hearing ground rules the Planning Commission followed. He explained what was not discussed or covered. Planning Commission recommendation was for reversal. A 4/5 vote is required for this item.

Council Member Smith asked why not all the RAD-ALT properties were reviewed. Mr. Klatt explained that the Council only directed the Friedrich property be addressed at this time.

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Council Member Nelson asked when the other properties were added. It was in 2005, as part of larger comp plan amendment.

MOTION: Council Member Nelson moved **TO OPEN PUBLIC HEARING**. Council Member Smith seconded the motion. **MOTION PASSED 5-0. Public hearing opened at 9:11 pm.**

Mayor Pearson read letter from Janice Green. She is the daughter of previous owner. Her letter was in support of keeping the property zoned RAD-ALT.

Larry Weiss 9042 Stillwater Blvd. claimed that 98% of neighbors do not want the property zoned RAD-ALT.

Ed Nielsen spoke about the previously proposed project.

Stewart Helgeson spoke in favor leaving the property as is. He claimed that there were proposals that were going to be brought forward.

Rita Conlin 8560 Ironwood Trl. Spoke in favor of leaving the property as is. She noted that the owners are confident a another plan is coming in future. She questions why this property is being singled out. She asked if appropriate to send signal to Met Council that zoning is being reduced right now. She noted that there have been other projects that have been unpopular, but are now well-accepted.

MOTION: Council Member Nelson moved **TO CLOSE PUBLIC HEARING**. Council Member Reeves seconded the motion. **MOTION PASSED 5-0. Public hearing closed at 9:20 pm.**

Council Member Smith is concerned about taking rights away from people. Allowing greater density in these areas may help alleviate density along I-94.

Mayor Pearson asked about the Met Council's interest in non-sewered development. Mr. Klatt stated that the Met Council at the time was more concerned about growth in sewerred areas. Ms. Smith believes the claim that the Met Council is more concerned about sewer than general overall population is misleading. Her recollection was that it was always about the population, and the Met Council was concerned about sewerred and non-sewerred areas equally.

Council Member Reeves noted that no viable project has been brought forward in 2.5 years. This is an example of spot zoning. Planning Commission had done a good job at the commission level. He is in favor of placing back in RAD.

Council Member Nelson learned of property in January 2013. Without even knowing about zoning, he identified this as perfect example of spot zoning. His preference is to go back to RAD.

Ms. Smith disputes all claims that either of the other areas were ever discussed to receive sewer. She claimed Carriage Station has great sense of community and includes smaller lots. She also asserted that many seniors have expressed interest in this location for senior living, not just in the Village. She is very supportive of farm school concept.

Mayor Pearson stated that it was conceivable that the other 2 areas could get sewer. He pointed out that City just did joint sewer project on Olson Lake Trail. He is also supportive of farm school concept, as his own children attended the West Lakeland location, but this location is not good. Traffic is a major concern. Council is not closing door to project proposal.

Council Member Bloyer wants city to deal with northern half of city and density. He is not for 2 units per acre, nor for 1 unit per 10 acres. He wants all three RAD-ALT properties addressed after the MOU is closer to being settled.

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MOTION: Council Member Bloyer moved TO DIRECT PLANNING COMMISSION TO ADDRESS ALL THREE RAD-ALT PROPERTIES. No second. MOTION FAILED FOR LACK OF SECOND.

When the Planning Commission planned to address the other RAD-ALT properties was discussed. It was determined that it is planned to be addressed in 6-9 months with a priority of 2 (1 being the highest) in the 2014 Community Development Plan of Work.

Council Members Nelson and Bloyer debated how the property should be handled. Both support property rights. Mayor Pearson wants the City to fix the mistake that was made in the past for this specific property. Mr. Bloyer reiterated that he believes that this is the wrong way to handle this property. He believes that this property will serve as a catalyst to address the other properties and zoning in the open space.

MOTION: Council Member Nelson moved TO TABLE THE ITEM. Council Member Bloyer seconded the motion. MOTION FAILED 2-3 (PEARSON/BLOYER/REEVES – NAY)

Council Member Reeves believes that property is distinct. It was spot zoning then and council has chance to fix it.

Council Member Smith thinks that the properties are the same. She agrees with Council Member Bloyer that all three should be looked at and also the northern properties at the same time. Mayor Pearson wants to address it now as it is before them. Ms. Smith's opinion is that it is not fair to treat this property differently. People have already spent money on the project. Mr. Nelson clarified that the Planning Commission was following the Council's direction. He does not want the Commission to bear any blame.

Council Member Smith called the question.

MOTION: Mayor Pearson moved TO ADOPT RESOLUTION NO. 2014-09 AMENDING THE COMPREHENSIVE PLAN TO CHANGE THE FUTURE LAND USE DESIGNATION OF 9434 STILLWATER BOULEVARD NORTH FROM RAD-ALT TO RAD. Council Member Reeves seconded the motion. MOTION FAILED FOR LACK OF SUPERMAJORITY 3-2 (BLOYER/SMITH - NAY).

ITEM 14: COMMUNITY DEVELOPMENT DEPARTMENT 2014 PLAN OF WORK

Community Development Director Klatt gave overview of plan of work. He noted that the RAD-ALT is on the plan of work.

Council Member Smith asked about form based codes. Mr. Klatt explained that staff will probably be handling it due to budget constraints. Timing will depend on staff time.

Council Member Nelson RAD-ALT wants it priority 1 and in 0-3 months. Mayor Pearson would rather wait.

Council Member Reeves pointed out that Council should not task staff with doing lots of work if Council needs to wait on other issues, such as the MOU.

Mayor Pearson asked if Planning Commission was in favor of plan. Mr. Klatt state they were. They moved a few items up in priority. It was explained that staff can bring it back mid-year to assess where we are.

MOTION: Council Member Smith moved TO ACCEPT THE 2014 COMMUNITY DEVELOPMENT DEPARTMENT WORK PLAN. Council Member Reeves seconded the motion. MOTION PASSED 5-0.

SUMMARY REPORTS AND ANNOUNCEMENTS

City Administrator Zuleger: will be bringing to Council agreement to eliminate MOU and 2040 Thrive forecast numbers; working on water funding- State bonding, federal funds, 3M funding, developer

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agreements; East north metro ground water plan involving the DNR case in White Bear Lake; Gateway Corridor transit will not be in Woodbury. Bus Rapid Transit will be included between Inwood and Keats; upcoming developer meeting on Village.

City Attorney Snyder: responding to routine staff requests; developer mtgs.

Community Development Director Klatt: developer meeting on Village is Wednesday, Jan 22; sketch plan south of RR tracks; final Lennar plat is in.

City Engineer Griffin: 2014 street improvements. Upcoming resident meeting and public hearing

Finance Director Bendel: Finance Committee working on assessor candidates; water workshop data; utility billing audit prep on schedule.

City Clerk Bell: Noted that 2/5 meeting is a Wednesday. Thanked Tri-Lakes Association and President Jonathan Early for understanding the meeting date change; reported livestock ordinance is to be heard at the Planning Commission meeting on 1/27/14; Working on setting up waste hauler meeting to discuss County and City goals and 2014 waste hauler licenses.

Mayor Pearson thanked everyone for energy and efforts.

Mayor Pearson adjourned the meeting at 10:17 pm.

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ATTEST:

Mike Pearson, Mayor

Adam R. Bell, City Clerk