

APPROVED MINUTES: September 6, 2005
LAKE ELMO CITY COUNCIL MINUTES

AUGUST 16, 2005

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1. AGENDA:

M/S/P DeLapp/Johnson - to approve the August 16, 2005 City Council agenda, as amended. (Motion passed 5-0).

2. MINUTES: August 2, 2005

M/S/P Johnson/Conlin - to approve the August 2, 2005 City Council Minutes, as amended. (Motion passed 5-0).

3. PUBLIC INQUIRIES/INFORMATIONAL:

A. Public Informational

Ed Nielsen asked that meeting minutes, identifying participants and content of discussions, be written within one week of scheduled meetings with individuals relative to Lake Elmo business be required for the Mayor, Council members, City Administrator and other designated staff, with copies of minutes sent to Council members and City File.

Susan Dunn, Technical Advisory Committee member, gave an update on the meeting for the Washington County Master Park Plan. Council member Smith asked if the City Attorney could look into any agreements the City may have so we can keep the Lake Elmo Regional Park as a park reserve.

M/S/ Smith/Johnston - to direct the City Attorney to see if there are any legal documents or legal authority to keep the Lake Elmo Regional Park a park reserve.

M/S/P Conlin/Smith -- to amend the motion to ask staff to investigate Washington County Park-Lake Elmo Regional Park file before we have a legal investigation. (Motion passed 5-0.)

M/S/P Smith/Johnson - to direct staff to see if there are any legal documents or authority to keep the Lake Elmo Regional Park as a park reserve before the City Attorney does a legal investigation. (Motion passed 5-0.)

4. CONSENT AGENDA:

A. Resolution No. 2005-083: Approving Claims

M/S/P Johnson/DeLapp -- to adopt Resolution No. 2005-083, A Resolution approving Claim Numbers 273, 274, DD485 through DD496, 27722 through 27756, which were used for Staff Payroll dated August 4, 2005, claims 27757 through 27810, in the total amount of \$139,696.47. (Motion passed 5-0).

B. Escrow Reduction: Tapestry

The developers of Tapestry at Charlotte's Grove have completed portions of the required plat improvement. The City Engineer has certified by his August 9, 2005 memo that the required development security can be reduced from \$2,530,287.50 to \$1,396,500.00.

M/S/P Johnson/DeLapp -- to approve the reduction of the Development Security required for Tapestry at Charlotte's Grove from \$2,530,287 to \$1,396,500.00 based on the recommendation of the City Engineer. (Motion passed 5-0)

5. FINANCE:

A. Monthly Operating Report

The Finance Director provided the Council with the Monthly Operating Report -- Revenue for August, 2005.

6. NEW BUSINESS:

7. MAINTENANCE/PARK/FIRE/BUILDING:

A. Update on Building Activities: Jim McNamara

The Building Official reported there were no new residential or commercial permits issued for July, 2005. He explained that Link Recreational, 9200 Hudson Blvd., has a permit to redo their parking lot and an excavating/grading permit for better runoff. A letter of credit has been submitted to the City.

8. CITY ENGINEER'S REPORT:

A. Stonegate Street Vacation

The City Engineer reported he has surveyed the cul-de-sacs at Jewel Avenue and Julep Court to determine how to structure the vacations. Drawings were provided to the council and, if approved, the legal would be prepared.

In his memo dated, August 12, 2005, the City Engineer indicated at Julep Court the City can vacate 5 feet of street right-of-way without impacting the paved portion of the cul-de-sac. He said he had no issues with the 8th street vacation as it would run from the west right-of-way line of Jewel Avenue to the west plat boundary.

The City Engineer explained the City can vacate the south 5 feet of Jewel Avenue; however, the property would revert to the City. The City cannot vacate the property in front of the residential lots unless we would remove a portion of the paved part of the cul-de-sac. The paved portion of the cul-de-sac is used by the public and should not be removed. The engineer did not recommend approval.

Fire Chief Malmquist explained that fire trucks would be stationed north of 10th Street and asked the Council to ensure that vehicles could reach neighborhoods as quickly as before. He voiced his concern for future roads as the property north of 10th Street develops and didn't want to see limiting additional access off of 10th Street. The Chief stated that if only access is from down on the frontage road, you are adding 4 minutes to response time and if you cut off their access it will take longer.

M/S/P DeLapp/Johnson - to direct staff draft to draft a resolution to result in a vacation of the three access points as described by the City Engineer. (Motion passed 5-0.)

The Fire Chief said if these areas are vacated, he wanted the City to ensure the Fire Department, etc, have good access in the future.

M/S/P Smith/DeLapp – that the City assures the Fire Department and Sheriff's Department, and any other emergency vehicles, will have access that is needed consistent with comments of the Chief Malmquist for all future developments. (Motion passed 3-2: Johnson, DeLapp).

B. Ordinance No. 97-161:Klondike Stop Sign

At its August 16th meeting, the City Council requested installation of a third stop sign at the intersection of Klondike Avenue and 32nd Street.

Council member Smith stated she talked to the Public Works Supervisor, who thought adding the additional stop sign was unnecessary so she suggested postponing the installation of this stop sign. Council member Johnson stated she talked to Sheriff Pott, who was familiar with this street and intersection, and who did not agree with installing another stop sign. Both Council members believed that decreasing the speed limit would slow down drivers.

Bob Novak, resident who has lived Klondike 30 years, stated if safety is the concern, it can be improved by the City if staff cut the brush 3 or 4 more feet for visibility. He said the signs that were put in 5 years ago work.

M/S/P Smith/Conlin - to approve Ordinance 97-161, changing the speed limits to 25 mph along Klondike Avenue and to postpone installing a third stop sign. (Motion passed 5-0).

C. Resolution No. 2005-084:Approve Plans for Hilltop Avenue

The City Engineer reported the plans are complete for the Hilltop Avenue Street Repair project. There will be no change in the street width. An assessment hearing will be scheduled.

M/S/P DeLapp/Smith- to adopt Resolution No. 2005-084, A Resolution Approving Plans and Specifications and Ordering Advertisement for Bids on the Hilltop Avenue Street Project. (Motion passed 5-0).

D. Resolution No. 2005-085:Approve Plans Watermain Interconnect Phase III

The City Engineer reported the plans are complete for the third phase of the water system interconnect project. This phase of work continues the 16-inch waterman from the existing Public Works Bulding, south along Jamaca Avenue, across TH5, to the new Farms of Lake Elmo subdivision. This project will not be assessed.

M/S/P DeLapp/ Johnson -- to adopt Resolution No. 2005-085, A Resolution Approving Plans and Specifications and Ordering Advertisement for Bids Water Systems Interconnect Phase III (Jamaca Avenue, Stillwater Blvd. and 31st Street). (Motion passed 5-0.)

9. PLANNING, LAND USE & ZONING:

A. Resolution No. 2005-086:Amended OP Concept Plan – Deer Glen

Planner Dillerud explained the plan, staff-dated August 16th, was just received and is different than the plan the Council received in their agenda packet. He said there is one less lot on the entrance road and they are adding a lot along the north and South Street.

Paul Danielson, the applicant's engineer, said the applicant had meetings with adjacent property owners. He said in order to accommodate neighbor's concerns the lots along the entrance road were shortened up and closer to roadway, 5 lots were changed to 4; and a trail created as a walking loop so it's not close to the house. He said they have brought in Damon Farber and Assoc., an urban landscape firm to assist with landscape planning for the site. He said the septic system has always been planned for a joint system with the church site.

Joan and Steve Ziertman presented their reasons against the proposed concept plan and their memo is attached hereto and made part of the Minutes.

Council members Smith and Conlin both said that they dislike the configuration of 4 lots on the east/west street which sit by themselves because it does not make a cohesive neighborhood.

Council member Smith suggested redesign of the OP Plan to take the 4 houses out and to utilize the natural features of the land to provide an alternative design with those lots grouped with the balance of the OP lots. She suggested that if the applicants move the church to the north they could place the four houses in the vacated area south of the church.

Mayor Johnston and Council member DeLapp said they supported all the comments made by Council Members Smith and Conlin.

Peter Beck, Attorney for the applicant, stated his client could go back to the 48 acre OP plan. He said the Council wanted them to add the 20 acres. He noted that the applicants didn't ask to add the 20 acres and additional lots. Beck said the church took 9 years to get the church plan approved and wouldn't want to open this up.

Mayor Johnston asked if the applicant would be willing to withdraw the application. Attorney Beck said the applicant would rather have it tabled to a date certain, and would like two weeks. The Planner noted that the completed application date is July 5th.

M/S/P DeLapp/Smith – to table the concept plan of Deer Glen until the September 6th Council meeting so the applicant can address the four lots in question. (Motion passed 5-0.).

Council member DeLapp asked about the road extension to the east property line and for input from the Fire Department.

Peter Beck stated the applicant will come back with the plan both ways regarding the road extension.

B. Resolution No. 2005-086:OP Development Stage Plan, CUP and Preliminary Plat – Discover Crossing

The City Planner reported this is an OP Development Stage/CUP/Preliminary Plat to create 25-28 single family lots on a site of 72 acres in the southwest quadrant of Lake Elmo Avenue and Highway 36. The range of lots proposed relates to the applicants' anticipation of forthcoming amendment to the density allowable in OP from 0.40 to 0.45 units per Buildable Acre. The extra three lots will be platted as outlots until the OP ordinance is amended over the next few months. The applicant will have to return with another Final Plat to convert the outlots into buildable lots.

Tim Freeman, FFE, stated the developer would like a monument sign and stamping and coloring of the street to indicate the area for pedestrians to walk. If the street is repaved, the residents should pay the extra assessment so that portions are stamped again. He said the street is above and beyond the City standards at no cost to the City.

Attorney Filla reminded the Council there is a report from the City Engineer that states that the stamping of the street is not a realistic plan and that it will be very expensive for the City to maintain this on-road-trail in the manner that is originally designed. Filla stated that he cannot tell the Council that this stamped road would contribute to accidents, but there is an increased liability with the street design proposed because the color-stamped streets is like asking people to walk in the streets.

Council member DeLapp stated he didn't like the monument sign, the split road or the lighting on the bridge.

M/S/ DeLapp/Johnston - to approve Resolution No. 2005-086, A Resolution Approving the Open Space Preservation Development Stage Plan, Preliminary Plat, and Conditional Use Permit of Discover Crossing plat with the exception of street lighting on the bridge and the monument sign.

M/S/P Johnson/Conlin – to amend the motion to exclude the color-stamped roadway paving. (Motion 4-1: DeLapp).

Council member Johnson asked to move the previous question. (Motion failed 3-2: Johnson, Conlin)

Tim Freeman said the developer would put money in escrow to cover the removal of the color-stamped roadway if the residents don't like it. Council member Smith stated she did support the color-stamped roadway paving.

M/S/P DeLapp/Johnston - to approve Resolution No. 2005-086, A Resolution Approving the Open Space Preservation Development Stage Plan, Preliminary Plat, and Conditional Use Permit of Discover Crossing plat with the exception of street lighting on the bridge, a monument sign and the color-stamped roadway paving. (Motion passed 5-0).

C. Section 520 Site Plan Amendment: Village North Office Park

The City Planner reported this is a proposal to modify the site plan of a previously approved project to construct a 10,000 square foot office building on 39th Street North – Brookman Addition. The revised plan re-orientes most of the off-street parking from the front of the building to the rear and side of the building, and enhances the landscaping that will be installed. The Planner said the new site design requires a slight increase to the area of the site, which can be processed by staff as a Lot Line Adjustment.

M/S/P Johnston/Johnson- to approve an amendment to the Section 520 Site Plan for “Village North” per plans staff-dated August 4, 2005, as recommended by the Planning Commission, subject to the following conditions:

1. Compliance with the recommendations of the City Engineer—specifically regarding wastewater treatment (temporary and permanent).
2. Compliance with the recommendations of the Valley Branch Watershed District as found to be reasonable and practical by the City Engineer.
3. Submission by the applicant of exterior lighting plans in compliance with Section 1350 prior to the issuance of a Building Permit. (Motion passed 5-0.)

D. Resolution No. 2005-087: Variance to Lot Size – Hardy

The City Planner reported Linda Hardy has asked for a zoning variance to allow a parcel-of-record that is non-conforming by area to be used for a single family dwelling site. The parcel is slightly over 17,000 sq.ft. and the minimum buildable parcel-of-record is 43,560 sq.ft. The applicant is proposing to move an existing 19th century farm house to the parcel. The Planning Commission’s recommendation includes a condition that the applicant must demonstrate that the parcel provides a sufficient area of soils suitable for both a primary and secondary septic drain field of a size suitable for the dwelling proposed. The Planner said he received a report that the soils on the lot are acceptable for a septic/drainfield designed for a 3 bedroom house and there is no room for a second drainfield unless it is a mound system.

Council member Smith said that she is concerned that approval of the application would open the door for people to place old buildings on substandard lots.

Attorney Filla said that by distinguishing this farmhouse, the City would avoid setting a precedent for other requests. He said it would be appropriate for the Council to specify that a long distance move would result in structural damage and unfavorable costs to the applicant. He said documents regarding the variance should discuss the comprehensive plan’s interest in the preservation of historic buildings.

Linda Hardy voiced her concern that the developer would tear down the house because she did not have a firm date for the house to be moved. Planner Dillerud responded that

no demolition permit had been issued by the City. Tim Freeman, FFE, said he would work on the timing of moving the house and the construction of the road which would go through the farmhouse's old lot.

M/S/P Conlin/ Johnston – to adopt Resolution No. 2005-087, A Resolution approving a variance from Section 300.09 Subd 1. of the Zoning Ordinance for Linda Hardy to permit a single family detached dwelling on a lot of record of less than 1 acre area, subject to conditions based on findings that the soils are acceptable for a septic system designed for a 3-Bedroom house, that the City has a strong policy of preserving and encouraging historic structure, that the house is 130 years old and from a 100 year old farm in Lake Elmo; and that the current building is located 600' from the vacant parcel, and it is economically prohibitive to move it and structural damage to the building may result from a longer move. (Motion passed 5-0).

D. Resolution No. 2005-088: Comprehensive Plan

The City Planner explained on August 8, 2005, the Planning Commission conducted a Public Hearing regarding amendments to the Comprehensive Plan resulting from the Memorandum of Agreement between the City and the Metropolitan Council. He reported that this was the second Public Hearing conducted by the Commission on the amendments. He also reported that on August 9, 2005 the Commission recommended forwarding the Comprehensive Plan amendments to the Council with a list of eleven recommended modifications to the Hearing Draft.

Mayor Johnson suggested in #8 water supply, we should include the words "health, safety concern" as a basis for the City requiring residences to be connected to the City water supply

Mayor Johnston made a motion to adopt modifications items 1-10 as recommended by the Planning Commission with Item No. 11 to be left out to be discussed later.

M/S/ Johnston/Johnson - to adopt Resolution No. 2005-089, A Resolution Approving the 2010-2030 Lake Elmo Comprehensive Plan, including modifications Items 1-10 recommended by the Planning Commission, excluding the Eischen/Dupuis property per their written request, to add the statement that the Lake Elmo Park Reserve should stay as a reserve and not as a park, and to include Parks Commissioner Blackford's comments on mountain biking not permitted in Sunfish Park.

Council member Smith brought up a coloring error on the map designating Midland Meadows. The Planner said there is an error on that map for Regional Sewer Plan and the Future Land Use Map has the same error. He said that this error can be corrected with no action by the Council required. Council member Smith said if a nice development proposal came in the Council could approve it by a four-fifths majority vote.

Council member DeLapp commented that the Comprehensive Plan did not address the transfer of development rights. Planner Dillerud responded that TDR is not a Comp Plan issue.

Council member DeLapp said he thought this was his opportunity to bring the comments he had on the Comp Plan.

Attorney Filla pointed out that if changes are made to the comp plan after adoption, then the City would have to send a corrected copy to the neighboring communities.

Mayor Johnston stated the City has to approve the Comp Plan tonight so the City can meet its schedule.

M/S/P Johnson/Conlin -- to call the question. (Motion passed 4-0).

Council member DeLapp stated this Comprehensive plan is a disgrace to the City and departed the meeting at 11:15 p.m.

M/S/P Johnston/Johnson - to adopt Resolution No. 2005-089, A Resolution Approving the 2010-2030 Lake Elmo Comprehensive Plan, including modifications Items 1-10 recommended by the Planning Commission, excluding the Eischen/Dupuis property from the Village Area per their written request, adding statement that the Lake Elmo Park Reserve should stay as a Reserve and not be changed to a Regional Park, and to include Parks Commissioner Blackford's comments on mountain biking not being permitted in Sunfish Park. The Comprehensive Plan will be submitted to the surrounding communities for their review. (Motion passed 4-0: Council member DeLapp was not present for the vote.).

Council member Conlin stated that Council member DeLapp chose to leave before speaking his piece. She said he was not driven out of here.

Council member Smith stated the Council listened to the other Council members' points, but didn't let Council member DeLapp have his say. She said that the Mayor had stated previously that there would be a discussion afterwards. Smith added that this is a Council of five members.

10. CITY ATTORNEY'S REPORT:

11. CITY ADMINISTRATOR'S REPORT:

12. CITY COUNCIL REPORTS:

The Council adjourn the meeting at 11:25 p.m.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2005-083 Approve Claims

Resolution No. 2005-084 Approve Plans for Hill Top Avenue

Resolution No. 2005-085 Approve Plans for Waterman Interconnect Phase III Project
Resolution No. 2005-086 Development Stage Plan, CUP and Preliminary Plat,
Discover Crossing

Resolution No. 2005-087 Variance to Lot Size – Hardy

Resolution No. 2005-088: Adoption of Comprehensive Plan

Ordinance No. 97-161 Adopt 25mph along Klondike Avenue