

MINUTES APPROVED: SEPTEMBER 21, 2004
LAKE ELMO CITY COUNCIL MINUTES

SEPTEMBER 7, 2004

1. AGENDA
2. MINUTES: August 17, 2004
3. PUBLIC INQUIRIES/INFORMATIONAL:
 - A. Public Inquiries
 - B. Kathi Pelnar: Animal Control Officer: Ordinance Relating to Confinement of Dogs
4. CONSENT AGENDA:
 - A. Planning Commission Resignations
 - B. Resolution No. 2004-076: Approve Claims
 - C. Resolution No. 2004-079: Partial Payment No. 4 to Schifsky & Sons for Hill Trail N./50th Street
5. FINANCE:
 - A. Resolution No. 2004-077: Adopting Levy Limit
 - B. Resolution No. 2004-078: Set Truth n' Taxation Hearing Dates
6. NEW BUSINESS:
7. MAINTENANCE/PARK/FIRE/BUILDING:
8. CITY ENGINEER'S REPORT:
 - A. Hill Trail Assessment Appeal: Resolution No. 2004-069: Adopting Hill Trail/50th Street Assessments
 - B. Highlands Trail Speed Study Results
 - C. 45th Street Pond
9. PLANNING, LAND USE & ZONING:
 - A. Zoning Ordinance Amendment -- Family Entertainment Center: CUP in GB Zone, Ordinance No. 138 and Ordinance No. 139
 - B. Amendment to Section 150 -- Building Height -- Ordinance No. 140
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT:
 - A. Set Public Works Council Committee Meeting Date (Verbal)
12. CITY COUNCIL REPORTS:

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

1. **AGENDA:**

ADD: Response to the Stillwater bridge EIS, REMOVE 4A. off consent agenda for discussion.

M/S/P Dunn/Johnston - to approve the September 7, 2004 City Council agenda, as amended. (Motion passed 5-0).

2. **MINUTES:** August 17, 2004
M/S/P John/Dunn - to approve the August 17, 2004 City Council minutes, as amended.
(Motion passed 5-0).

3. **PUBLIC INQUIRIES/INFORMATIONAL:**

A. Public Inquiries - None

B. Kathi Pelnar: Animal Control Officer: Ordinance Relating to Confinement of Dogs

The Community Improvement Commission recommended this change because it felt that underground fencing isn't effective on all dogs and the system can fail if things such as batteries are not replaced. In addition, if a dog does escape from underground fencing, they can't get back into the yard or another dog or animal can get into the yard causing the dog to jump through the invisible fence. The Commissioners felt that extra enforcement would be a good idea if the owners were not at home.

Kathi Pelnar, ACO, told the Council that underground fencing wasn't causing a problem in the city, but there are some flaws with the systems. She said in the 10 cities she serves as an ACO, about a third of the dogs she picks up have underground fencing collars on. In Lake Elmo the number of dogs picked up wearing underground fencing collars was four last year and four this year. Pelnar said that enforcing the underground fencing change wouldn't be much different from enforcing the city's current dog at large ordinance. When a dog is at large, owners get a citation, so it's no more or less enforceable.

The Council liked the idea of adding a three—strikes clause to the ordinance. The clause would mean that if a dog escaped from its yard three or more times, then owners wouldn't be able to use underground fencing as the only means of confinement when no one was at home. Another change suggested was to look into whether or not the city can require the owner and dog to attend obedience training if the dog is picked up three or more times.

M/S/P Johnston/John – to refer back to the Community Improvement Commission to review the issues again and recommend a change that would incorporate the City Council's suggestions for a three-strike rule. (Motion passed 5-0.)

4. **CONSENT AGENDA:**

A. Planning Commission Resignations

Planning Commission Jeff Berg resigned his commission on August 20, 2004. Jim Van Pelt resigned his commission on August 30, 2004.

M/S/P John/Dunn – to accept the resignation of Planning Commissioner Jeff Berg and to send a letter of appreciation for his contributions to the residents of the City of Lake Elmo. (Motion passed 5-0).

M/S/P Johnston/John – to accept the resignation of Planning Commissioner Jim Van Pelt and to send a letter of appreciation for his contributions to the residents of the City of Lake Elmo. (Motion passed 5-0).

The Planning Commission now has seven full-voting members and two alternates. First Alternate Planning Commissioner Thomas Meldahl would like to remain as an Alternate Member through the summer. Second Alternate Planning Commissioner Charlie Schneider should be appointed as a full-voting member to finish the term of Jeff Berg that expires on December 31, 2004.

M/S/P DeLapp/John - to appoint Charlie Schneider as a full voting member of the Planning Commission. (Motion passed 5-0.)

The Planning Commission now has two openings (one full voting member and one alternate member) and three applications on file. Those applicants are LeRoy Rossow, Gloria Knoblauch and Thomas Armstrong. An application from Julie Fliflet was presented to the Council at the meeting.

Planner Dillerud noted that Tom Armstrong, as well as Jeff Berg and Jim VanPelt, have indicated their desire to come back to serve on the Commission at a later date.

Council member Johnston noted the City needs a procedure for appointments as the ground rules change with each appointment.

M/S/P Dunn/Johnston – to direct the staff to invite the candidates for an interview and solicit candidates through the website, cable and a press release in the newspaper. (Motion passed 5-0.)

B. Resolution No. 2004-076 Approve Claims

M/S/P John/Dunn - to adopt Resolution No. 2004-076 - approving claim numbers 213, 214, DD230, 26061 through 26074 that were used for staff payroll dated August 19, 2004 Claim numbers 215, 216, DD231 26076 through 26086 which were used for staff dated September 2, 2004, Claim 26075, 2607 through 26152 in the total amount of \$379,805.01. (Motion passed 5-0).

C. Resolution No. 2004-079: Partial Payment No. 4 to Schifsky & Sons for Hill Trail N./50th Street

The City Engineer reported T.A. Schifsky has completed the final sodding repair work and the project will be completed the week of September 6, 2004. The City Engineer recommends approval of Partial Payment No. 4 to T.A. Schifsky in the amount of \$77,893.22. This pay request covers the wear course paving and initial turf establishment work done last spring.

M/S/P John/Dunn - to adopt Resolution No. 2004-078, Approving Partial Payment No. 4 in the amount of \$77,893.32 for Hill Trail North and 50th Street North Reconstruction to T. A. Schifsky, verified by the City Engineer's memo dated September 1, 2004. (Motion passed 5-0).

5. FINANCE:

A. Resolution No. 2004-077: Adopting Levy Limit

The Finance Director provided a draft resolution pertaining to the adoption of the proposed 2004 tax levy, collectible in 2005 in the amount of \$1,923,989. He noted that the proposed amount certified to Washington County by September 15, 2004 cannot be increased; however, the City does retain the authority to lower the levy.

Council member DeLapp asked about purchasing a tree spade. This request can be brought up at a Public Works Council committee.

M/S/P John/DeLapp - to adopt Resolution No. 2004-077 for the proposed 2004 tax levy, collectible in 2005. (Motion passed 5-0)

B. Resolution No. 2004-078: Set Truth n' Taxation Hearing Dates

The Finance Director explained the City conducts a Truth in Taxation Public Hearing for the 2005 General Fund Budget and the final 2004 Tax Levy, collectible in 2005. He suggested the Council consider Monday, December 6th, at 7:00 p.m. and a continuation hearing (if necessary) on Monday, December 13th at 5:30 p.m. for the Truth in Taxation Public Hearings.

M/S/P Dunn/Johnston - to adopt Resolution No. 2004-078 setting the Truth in Taxation Public Hearing dates for the 2004 Tax Levy and the 2005 Budget. (Motion passed 5-0.)

6. NEW BUSINESS:

7. MAINTENANCE/PARK/FIRE/BUILDING:

8. CITY ENGINEER'S REPORT:

A. Hill Trail Assessment Appeal, Resolution No. 2004-069: Adopting Hill Trail/50th Street Assessments

At the August 17th meeting, the Council tabled adoption of the assessment for the Reconstruction of Hill Trail/50th Street to allow the City Engineer and City Attorney to review the appeal of Roger Johnson and address the concerns stated in Bud Talcott's memo.

The City Engineer provided a response to questions in Bud Talcott's memo of August 17, 2004 and addressed Roger Johnson's Hill Trail Assessment Appeal. Planner Dillerud reported the parcel owned by Roger Johnson is .91 acres and it was not buildable, therefore, this lot will be assessed as a recreational lot.

Council member Dunn explained the purpose of the street reconstruction was to address the drainage concerns. She pointed out that the culverts looked rough and needed to be fixed. She asked the engineer to make sure the stakes are taken out that hold the sod so no one gets hurt.

Bud Talcott, Hill Trail resident, brought in metal stakes found in his driveway, and noted he has seen no one with metal detectors.

M/S/P Johnston/Dunn - to adopt Resolution No. 2004-069 Adopting the assessment roll, as amended (Roger Johnson's combined parcel 05-029-21-33-024 and 05-029-21-33-026 as a recreational lot \$1,250 and parcel 04-029-21-33-0031 with his house at \$2,500) for the Reconstruction of Hill Trail N. and 50th Street N., verified by the City Engineer's memo dated September 1, 2004. (Motion passed 5-0).

B. Highlands Trail Speed Study Results

Per the request of the Council, a 48-hour speed study was done on Highlands Trail. In his memo dated September 2, 2004, the City Engineer reported the speed study was done west of Highlands Court. The results of the study show that two-thirds of the vehicles travel between 31 and 40 MPH. The posted speed limit is 30 MPH. In order to reduce the traffic speed, he recommends narrowing the street from 59th Street to Hytrail Avenue to 26 feet which would eliminate on-street parking.

Council member Johnston explained he has talked to the residents, who said the stop sign has not slowed down the traffic, but it has added safety to the intersection. He didn't feel there was any justification to put in more money into this project. Council member Dunn agreed to leave Highlands Trail with the stop sign. Council member DeLapp indicated the city could do some cosmetic things and that you can't just add a stop sign when you don't know what else to do. We could possibly look at a trail plan for this area. Planner Dillerud was asked to add this section to a trail plan.

Liz Johnson, Planning Commission member, said she lived in that neighborhood and residents did a lot of walking in this neighborhood and have a concern on speed of traffic.

C. 45th Street Pond

In his memo dated September 2, 2004 the City Engineer reported he received two quotes for repair of an erosion problem on City owned property on 45th Street. The quotes received were from Miller Excavating for \$11,665.00 and Larson Contracting for \$17,900.00. The Engineer recommended accepting the quote from Miller Excavating for construction of the 45th Street Pond.

M/S/P Dunn/John - to accept the quote from Miller Excavating for \$11,665.00 for construction of the 45th Street Pond, per the recommendation of the City Engineer in his memo dated September 2, 2004. (Motion passed 5-0.)

9. PLANNING, LAND USE & ZONING:

A. Zoning Ordinance Amendment-Family Entertainment Center:CUP in GB Zone

The City Planner reported it was suggested by the City Council that the Planning Commission again consider a Zoning Ordinance text amendment regarding the addition of Family Entertainment Center (FEC) as an allowable use. Staff had published a Notice of Public Hearing to consider an amendment to the General Business (GB) zoning district text to allow a Family Entertainment Center (without building area limitation) in the GB zone ad a Conditional Use. The Planning Commission recommended an amendment to the GB zone as proposed (as a Conditional Use) and the addition of "Family Entertainment Center" to the Definition Section. The recommendation modifies the Family Entertainment Center definition to remove "indoor paintball" as a specific inclusion.

Council member DeLapp voiced his concern on the definition of adult supervision, and the City should think about conditions before it adopts a conditional use permit.

M/S/P John/Dunn – to adopt Ordinance 97-138 amending the General Business District zoning ordinance text to include Family Entertainment Center as a Conditional Use. (Motion passed 5-0).

M/S/P John/Dunn – to adopt Ordinance 97-139 adding a definition of "Family Entertainment Center" to the City Code. (Motion passed 5-0).

B. Amendments to Section 150 – Building Height

The City Planner indicated that responsive to Council direction on July 20, staff has prepared a Draft ordinance that would repeal the "old" Building Height definition and amend the new Building Height Definition to allow highest point measurements from the highest ridge of a hip or gable roof.

M/S/P Dunn/Johnston – to adopt Ordinance 97-140 amending Section 150 of the City Code regarding the definition of Building Height. (Motion passed 5-0.)

C. Stillwater Bridge

Council member DeLapp noted the City has not received a copy of the EIS for the Stillwater bridge.

10. CITY ATTORNEY'S REPORT:

11. CITY ADMINISTRATOR'S REPORT:

A. Set Public Works Council Committee Meeting Date (Verbal)

The next Council Committee meeting date is scheduled for September 14th which is the Primary Election. The Council rescheduled the Council Committee date to Monday, September 13th at 5:30 p.m.

12. CITY COUNCIL REPORTS:

Council member DeLapp reminded the Council of the Tour de Sprawl making two stops in Lake Elmo. The group will be meeting at the Fields of St. Croix barn and Steve thought this would be an opportune time to discuss what can be done with the Old Village.

The Council closed the Council meeting at 8:45 to enter a closed meeting with our attorneys to discuss Met Council litigation.

Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2004-076 Approve Claims

Resolution No. 2004-077 Approved proposed 2004 Tax Levy, Collectible in 2005

Resolution No. 2004-078 Setting the Truth in Taxation Public Hearing Dates for 2004 Tax Levy

Resolution No. 2004-079 Approve Final Payment No. 4 to T.A. Schifsky for Hill Trail N. and 50th Street N.

Ordinance No. 97-138 Amending the GB district to include Family Entertainment Center as a CUP

Ordinance No. 97-139 Adding a definition of Family Entertainment Center

Ordinance No. 97-140 Amending Section 150 definition of Building Height

**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

ORDINANCE NO. 97-142

**AN ORDINANCE RELATING TO THE ADOPTION OF A DEVELOPMENT
MORATORIUM IN THE VILLAGE AREA**

The Lake Elmo City Council ordains that Section 301.160 and its subdivisions shall be added to the Lake Elmo Municipal Code to read as follows:

301.160 Development Moratorium

- A. The Village Area of the City of Lake Elmo (the "City") is designated on **Exhibit A** attached (the "Village Area")
- B. The City has commissioned various studies to determine development impacts and infrastructure requirements for future development of the Village Area.
- C. The City has received reports relating to street layouts, waste water treatment facilities, and the provision of City water to the Village Area.
- D. The City needs to complete its review of surface water drainage issues relating to the Village Area.
- E. Upon completion of the surface water drainage study, the City will be in a position to amend its comprehensive plan and official controls to guide and facilitate orderly development in the Village Area.
- F. In order to protect the planning process and the health, safety and welfare of its citizens, a Development Moratorium is hereby adopted pursuant to the provisions of Minn. Stat. 462.355, Subd. 4, as amended, for all property in the Village Area subject to the following conditions which shall be applicable during the term of the Development Moratorium:
 - 1. Property may only be rezoned to an agricultural use.
 - 2. Property may not be further subdivided except in connection with an approved lot line adjustment.
 - 3. Vacant platted residential lots which have already been approved by the City may be developed consistent with the City's current zoning and building regulations and any conditional use permit which may apply to such property.

4. Additions to existing construction shall be allowed subject to the issuance of appropriate permits.
 5. Additions to existing structures or new construction which would require a variance shall not be permitted.
- G. This Development Moratorium shall remain in effect for up to _____ months from the date of publication of this Ordinance unless terminated or extended by action of the City Council.
- H. The City Council may, by amendment to this Ordinance following the adoption of specific findings, remove specific parcels from the area of this Development Moratorium; or repeal the Development Moratorium in its entirety.

Effective Date. This Ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of Lake Elmo the 5th day of October, 2004.

Lee Hunt, Mayor

Martin J. Rafferty, City Administrator

Publication Date: This Ordinance was published in the _____.

PFB#11135.03-5
F:\users\Janice\Jerry\LE\ Village Area Development Moratorium.doc

City of Lake Elmo
 Lake Elmo City Council
 Planning Commission Tally

October 5, 2004

Armstrong	Conlin	Fliflet	Knoblauch	Rossow	Roth
0	0	0	0	0	0

First Choice= 2 pts
 Second Choice= 1 pt

Results	
Knoblauch	0
Rossow	0
Armstrong	0
Fliflet	0
Roth	0
Conlin	0

City of Lake Elmo
Lake Elmo City Council
Planning Commission Tally

October 5, 2004

Armstrong	Conlin	Fliflet	Knoblauch	Rossow	Roth
0	0	0	0	0	0

First Choice= 2 pts
Second Choice= 1 pt

Results	
Knoblauch	0
Rossow	0
Armstrong	0
Fliflet	0
Roth	0
Conlin	0