

**MINUTES APPROVED: August 17, 2004**  
**LAKE ELMO CITY COUNCIL MINUTES**

WEDNESDAY, AUGUST 4, 2004

(The Council meeting has been rescheduled from August 3, 2004  
because of National Night Out)

1. AGENDA
2. MINUTES: July 20, 2004
3. PUBLIC INQUIRIES/INFORMATIONAL:
4. CONSENT AGENDA:
  - A. Resolution No. 2004-062 Approving Claims
  - B. Request for Meehan Family for an Extension of time to Record Final Plat
  - C. Ordinance Amending Definition for Building Height (POSTPONED)
  - D. Resolution No. 2004-062: Appointing Election Judges for Primary and General Election
  - E. Resolution No. 2004-063: Designating Polling Places for the Primary and General Election
5. FINANCE:
  - A. Schedule Meeting Date for Bond Resolution and Amend CIP
6. NEW BUSINESS
7. MAINTENANCE/PARK/FIRE/BUILDING:
  - A. Update on Fire Department Activities: Fire Chief Malmquist
8. CITY ENGINEER'S REPORT:
  - A. Landscape Security Release-Eagle Point Business Park
9. PLANNING, LAND USE & ZONING:
  - A. Resolution No. 2004-064: Request to MnDOT for Iris Avenue Street Sign
  - B. Fence Ordinance: Ordinance No. 97-137
  - C. Fence Moratorium Request at 55<sup>th</sup> Street N. (Postponed)
  - D. Limited Business Zoning District -- Add Family Entertainment Center (Tabled at the request of the applicant)
  - E. Resolution No. 2004-065: Final Plat, OP Plat & Development Agreement; Whistling Valley Second Addition
10. CITY ATTORNEY'S REPORT:
11. CITY ADMINISTRATOR'S REPORT:
  - A. New Public Facilities: City Hall, Public Work Facilities and Possible Fire Station
12. CITY COUNCIL REPORTS
  - A. Mayor Hunt: Smoking Ban

Acting Mayor Dunn called the meeting to order at 7 p.m. in the Council chambers.

PRESENT: John, Dunn, Johnston, DeLapp, City Engineer Prew, City Attorney Filla, City Planner Dillerud, Finance Director Tom Bouthilet and Administrator Rafferty.

ABSENT: Mayor Hunt

**1. AGENDA**

DELETE: 9C. Fence Moratorium Request, TABLE: 9D at the request of the applicants;  
ADD: 8B. Resolutions Calling for Assessment Hearings, 11D. Supreme Court Position,  
Update on 37<sup>th</sup> Street Property

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

**2. MINUTES: August 4, 2004**

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

**3. PUBLIC INQUIRIES/INFORMATIONAL:**

Paul Ryberg, Friends of Lake Elmo Library, thanked the Council for paying for the booth at the Washington County Fair and they still were looking for volunteers to man the booth.

Liz Johnson, Planning Commission member, stated she thought white is a rural color for a fence and asked the Council to reconsider discouraging particular colors which she felt only sets up residents that could afford a fence of particular colors because they are more expensive.

**4. CONSENT AGENDA:**

**A. Resolution No. 2004-061 Approving Claims**

M/S/P Johnston/DeLapp - to adopt Resolution No. 2004-061 approving Claim Numbers DD203 through DD210 25931 through 25947, which were used for staff payroll dated July 22, 2004, Claim Numbers 25948 through 25988 dated August 3, 2004 in the total amount of \$245,233.95. (Motion passed 4-0).

Council member Johnston asked what the accumulative expenses were for fighting the Met Council. Finance Director responded \$343,102 and anticipated expenses throughout December.

**B. Request for Meehan Family for an Extension of Time to Record Final Plat**

Torre Pines was given preliminary plat approval July 1998 and final approval for all but three lots in September 1998. The City was informed at that time that Mr. Meehan would continue to live in the existing home on the 10 acres and that the final plat for these four lots would not be done at this time. The Meehans are requesting another one-year extension. Our code allows for this extension, but requires Council approval on a yearly basis.

M/S/P Johnston/DeLapp -- to grant the Meehan's a one-year extension of the Final Plat of Torre Pines, specifically the parcel snow shown as Lot 15. (Motion passed 4-0).

- C. Ordinance No. 97- Amending Definition for Building Height (Postponed to 8/17)
- D. Resolution No. 2004-062:Appointing Election Judges for Primary and General Election

M/S/P Johnston/DeLapp – to adopt Resolution No. 2004-062, Appointing Elections Judges for the September 14, 2004 Primary Election and the November 2, 2004 General Election. (Motion passed 4-0).

- E. Resolution No. 2004-063:Designating Polling Places for the Primary and General Election

M/S/P Johnston/DeLapp – to adopt Resolution No. 2004-063, Designating Polling Places for the September 14, 2004 Primary Election and the November 2, 2004 General Election. (Motion passed 4-0).

## **5. FINANCE**

- A. Schedule Meeting Date for Bond Resolution and Amend CIP

The Council selected Tuesday, August 24, 2004, 7 p.m. to hold the Public Hearing for the Bond Resolution and Amend the CIP.

## **6. NEW BUSINESS:**

## **7. MAINTENANCE/PARK/FIRE/BUILDING:**

- A. Update on Fire Department Activities:Fire Chief Malmquist

Fire Chief Malmquist reported the Department was invited to two neighborhoods for National Night Out. The Department calls are down 40 to 50 calls from 2003. All of the Firefighters on staff are First Responders. The Department will be attending Fire Fighter Day at the Washington County Fair on Saturday.

## **8. CITY ENGINEER'S REPORT:**

- A. Landscape Security Release-Eagle Point Business Park

Planner Dillerud reported two growing seasons have been completed for the landscape improvements at the Eagle Point Business Park (office condos on Eagle Point Blvd.). Mike Bouthilet has inspected the landscaping and reported the landscaping complies with the approved landscape plan for the site. He noted a handful of trees that had not survived have been replaced by the project developer. Staff recommended release of the \$89,900 Letter of Credit securing the landscape plan for this site.

M/S/P Johnston/DeLapp - to approve release of M&I Bank Letter of Credit #SB6244 securing the landscape improvements of the Eagle Point Business Park based on the Finding that the landscape improvements are complete per approved plans and the landscape materials have survived two growing seasons. (Motion passed 4-0).

**B. Resolution No. 2004-066: A Resolution Calling a Public Hearing on Proposed Assessment for the 2004 Overlay Project**

M/S/P DeLapp/John -- to adopt Resolution No. 2004-066, A Resolution for Hearing on August 17, 2004, 7 p.m., for the Proposed Assessment for the 2004 Overlay Project: 49<sup>th</sup> Street, Jane Circle North, Jasper Avenue North, Jerome Avenue North. (Motion passed 4-0).

**C. Resolution No. 2004-067: A Resolution Calling a Public Hearing on Proposed Assessments for the Improvement of Hill Trail N.**

M/S/P DeLapp/John -- to adopt Resolution No. 2004-067: A Resolution for Hearing on August 17, 2004, 7 p.m., for the Proposed Assessment for the Improvement of Hill Trail North and 50<sup>th</sup> Street North. (Motion passed 4-0).

**9. PLANNING, LAND USE & ZONING:**

**A. Resolution No. 2004-064: Request to MnDOT for Iris Avenue Street Sign**

Planner Dillerud reported the Wildflower Shores HOA has requested installation of the large MnDOT street signs on State Highway 5 identifying the Iris Avenue intersection. These would be the same signs that now identify several other streets that intersect State Highway 5.

MnDot has requested a resolution of the Council. A proposed resolution was provided for Council approval.

M/S/P DeLapp/John - to adopt Resolution No. 2004-064, Requesting MnDOT to install street signs for Iris Avenue serving the Wildflower Shores neighborhood. (Motion passed 4-0). Council member Dunn asked staff to look into the possibility of a smaller scale size than the Klondike Avenue street sign.

**B. Fence Ordinance**

Planner Dillerud reported that at the July 20th meeting, the Council tabled the proposed new fence ordinance to enable staff to consider incorporating additional items that Council Members would communicate to staff in writing. Staff received comments from Council members DeLapp and Johnston and Administrator Rafferty.

M/S/P Dunn/Johnston -- to amend the text in Section 302.02 Fence Materials, Subd. 1 -- Permitted Fence materials by deleting "other than those white in color". (Motion passed 3-1:DeLapp).

M/S/F Dunn/John -- to amend the text in Section 302.02 Fence Materials, Subd. 3 -- Chain Link or Cyclone Fences by deleting "and shall be black or green in color". (Motion Failed 2-2:Johnston said he didn't like the galvanized fences, DeLapp).

M/S/P Johnston/Dunn – to amend the text in Section 302.02 Fence Materials, Subd. 3 – Chain Link or Cyclone Fences by striking “and shall be black or green in color”.  
(Motion passed 3-1:DeLapp)

M/S/P Johnston/Dunn – to amend the text in Section 302.04 Temporary Fences, Subd. 1 – Defined to read “Temporary Fences shall be open to light and air over not less than “40%” of the fence surface area.” (Motion passed 4-0).

M/S/P Johnston/DeLapp – to amend the text in Section 302.06 Fences as Screening and Security as Required by This Code by adding “Item 4. No such screening shall be roofed or covered in any manner. (Motion passed 4-0).

The Council suggested that in Section 302.02 add Temporary Fences as exclusion to requiring a building permit. Council member Johnston asked if temporary fences are adequately defined. Attorney Filla responded that temporary fence definitions could have other fences; such as, garden, snow fences and swimming pool fences which are installed and removed on a seasonal basis.

M/S/P Johnston/DeLapp – to not require a building permit for temporary fences. (Motion passed 4-0).

Attorney Filla suggested adding the words “6 months administratively.”

M/S/P Johnston/John – to amend the text to read in Section 302.07, Item 1. Fence Permits Required: All such fences shall be removed by the property owner within 6 months of the termination of the keeping of Domestic Farm animals, unless an extension is specifically authorized by City Council action. (Motion passed 4-0).

M/S/P Johnston/John – to adopt Ordinance No. 97-137, Fence Ordinance, as amended. (Motion passed 4-0).

M/S/P Johnston/John to amend the agenda add 9B New Fence Ordinance and Repeal of Fence Moratorium. (Motion passed 4-0).

M/S/P Johnston/DeLapp – to repeal the Fence Moratorium. (Motion passed 4-0).

Planner Dillerud will address Council member Johnston’s concern on clarification of fences in the OHW setback in the shoreland ordinance.

C. Fence Moratorium Request at 55<sup>th</sup> Street North:

This agenda item was postponed to August 17<sup>th</sup> Council meeting per the request of resident, Tom McCormick.

D. Limited Business Zoning District – Add Family Entertainment Center:

This agenda item was tabled at the request of the applicant.

E. Resolution No. 2004-065:Final Plat, OP Plan & Development Agreement-Whistling Valley Second Addition

Planner Dillerud reported Bald Eagle Development has applied for Final Plat approval of the 18 lot Second Addition for Whistling Valley in the Northwest Quadrant of Keats Avenue and 10<sup>th</sup> Street North. The Final Plat proposed is response to the approve Preliminary Plat and the conditions to that approval (no direct trail access is proposed to the Regional park). The City Attorney prepared a Development Agreement covering the responsibilities and financial requirements of the developer. The final landscape plan includes forestation exceeding the requirements of both the OP Ordinance and the Subdivision Code. Staff recommended adopt of the Resolution approving the Final Plat OP Plan and Development Agreement.

M/S/P Johnston/John - to adopt Resolution No. 2004-065, (change to concrete curb) A Resolution approving the Final Plat, Final Plan, and Development Agreement of Whistling Valley Second Addition per plans staff-dated July 29, 2004. (Motion passed 4-0).

**10. CITY ATTORNEY'S REPORT:**

Attorney Filla reported the property on 37<sup>th</sup> street has gone tax forfeit and he will come back with an estimate of costs for proceeding.

**11. CITY ADMINISTRATOR'S REPORT:**

A. New Public Facilities:City Hall, Public Work Facilities and Possible Fire Station

A presentation was made by staff and Tom Prew and Terri Olsen, TKDA, for a new City Hall, Public Works and potential Fire Facility. Two different options for a new city hall complex were discussed, one site is the Brookfield II site, 3880 Laverne Avenue N., and the second site is where Lions Park is located, 3525 Laverne Avenue, across from the Lake Elmo Fire Hall. The Council did not make a decision between the two sites, but wanted to proceed with moving the project forward in order to capitalize on the low interest rates currently being offered. Council member Dunn voiced her concerns on the drainage problem that has existed for years and where Lions Park, one of the city's first, would be relocated. She said the concern on high density housing in the Old Village area was brought out at the public meetings. Council member DeLapp pointed out the plans didn't show senior housing and didn't deal with the space around city hall. Administrator Rafferty reported staff has met with two master developers and they had positive things to say on this proposal.

M/S/P Johnston/John – to set the public hearing date for August 24, 2004, 7 p.m., to approve bond financing in the amount of 4,900,000 for a new city hall complex. (Motion passed 4-0).

B. Confirmation of Captain Appointment

M/S/P Johnston/John -- to confirm the appointment of Bruce Cohen to Captain of the Lake Elmo Fire Department. (Motion passed 4-0).

**12. CITY COUNCIL REPORTS:**

Council member DeLapp announced the Sierra Club will hold a Tour de Sprawl bicycle tour through the City on September 18<sup>th</sup> and are looking for the city to offer a squad escort along 10<sup>th</sup> Street.

M/S/P Johnston/DeLapp -- to request the Washington County Sheriff's Department to work with the Sierra Club to provide a squad escort on 10<sup>th</sup> Street N. for the bicycle tour, Tour de Sprawl, on September 18, 2004. (Motion passed 4-0).

Administrator Rafferty reported there will be a workshop on the County-wide assessment proposal, Tuesday, August 10, 10:15 a.m., in the Washington County Board Room. The Supreme Court decision will come out on Thursday, 1 p.m.. He spoke to the Mayor of Minnetrista, which is experiencing similar problems with the Met Council.

Discussion on the smoking ban will be referred to the Public Health and Safety Council Committee. Discussion on purchase of a speed trailer in regard to issues on Highlands Trail will be added to the Public Works Council Committee agenda.

Council adjourn the meeting at 9:30 p.m.

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Respectfully submitted by Sharon Lumby, City Clerk

Resolution No. 2004-061 Approve Claims

Resolution No. 2004-062 Appoint Election Judges

Resolution No. 2004-063 Designate Polling Places

Resolution No. 2004-064 Request to MnDOT for Iris Avenue Street Sign

Resolution No. 2004-065 Final Plat of Whistling Valley Second Addition

Resolution No. 2004-066 Call a Public Hearing on Assessments for 2004 Overlay

Resolution No. 2004-067 Call a Public Hearing on Assessments for Improvement of Hill Trail

Ordinance No. 97-137 Fence Ordinance