

WOODLAND CITY COUNCIL  
MINUTES OF THE CITY COUNCIL  
MONDAY, APRIL 11, 2005  
6:00 P.M.  
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**CALL TO ORDER:** Mayor Stark called the meeting to order at 6:00 PM.

**EXECUTIVE CLOSED SESSION REGARDING LAWSUIT**

Attorney Jerry Gilligan stated according to State Statue 13D.05 Subd. 3 (b) the Council will go into closed executive session for attorney/client privileges to discuss settlement litigation strategy in Newell vs. Woodland and also to discuss litigation of Bartus and Shawd v. the City of Woodland.

Councilmember Doak moved to close the meeting and go into executive Session at 6:05.

Councilmember Evenstad seconded. Motion carried 4-0.

The closed door session adjourned at 6:55 PM.

Mayor Stark reconvened the Regular Council meeting at 7:00 PM.

**COUNCIL MEETING**

**PRESENT:** Jean Stark, Jim Doak, Mark Evenstad, Michael Jilek

**ABSENT:** Steve Hornig

**STAFF:** Attorney George Hoff, City Attorney Jerry Gilligan, Assessor Dan Distel, Hennepin County Assessor Bill Effertz, City Treasurer Grace Norris, Zoning Coordinator Gus Karpas and City Clerk Sandy Langley

**OTHERS:** Dr. Dennis Peterson, Matthew & Julie Halbower, John Dhamer, Gus Boller, Steve Moss, Bill Dolan, Cooper Ashley, Peter Davis, Julie and Matthew Halbower

**NEW BUSINESS**

- A. Dr. Dennis Peterson, Minnetonka School update regarding Education programming and how Minnetonka ranks with other High Schools. – Mayor Stark introduced Dr. Peterson. Dr. Peterson distributed the Annual Report on Curriculum, Instruction and Student Performance from 2003-2004 and answered questions regarding the School District. Councilmember Doak asked that Dr. Peterson comment on accelerated curriculum for qualified students and on the status of special education. Mr. Doak noted how well the Minnetonka School System ranks in the State and expressed the hope that more parents of Woodland’s students would consider public education a viable alternative to private schools.

**BOARD OF APPEALS & EQUALIZATION**

- A. **CALL TO ORDER** – Chairperson Stark called the Board of Appeals & Equalization to order noting the purpose of the Local Board of Appeal and Equalization is to provide a fair and objective forum for owners to appeal the valuation of their property.
- B. City Assessor Dan Distel summarized the Board of Appeal & Equalization process. He stated that it is his job to estimate property values based on comparable sales and specific property amenities. The target valuation is 95% to 105% of the probable sale price. Hennepin County Assessor, Bill Effertz’s function at our meeting is to record appearances so property owners are able to move on to Hennepin County Board of Equalization if they do not agree with the Local Board of Appeals.

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John Dhamer, 2805 Stone Arch Road, stated his property taxes keep going up each year and no improvements have been made to his home. All of the properties around him have been remodeled or updated in some manner, but his has not. He is not connected to city water and sewer and if he should connect it would cost him in excess of \$40,000. He feels this has not been taken into consideration in valuing his property.

Mayor Stark noted the average valuation increase in the City was 10 % this year and this property was increased 6%.

Mr. Distel explained that Mr. Dhamer's land is assessed value at \$285,000 and the house is assessed at \$212,000 for a total valuation of \$497,000.

Mr. Dhamer stated that his property is not on the lake front and that he knew of no comparable homes to support or disprove his valuation.

Mayor Stark moved to approve the Assessor's valuation as is for 2005. Councilmember Doak seconded. Motion carried 4-0. Mr. Dhamer was told he could appeal to Hennepin County.

### 3. ADJOURNMENT

Mayor Stark adjourned the Board of Appeals and Equalization at 7:32 PM.

### **COUNCIL MEETING WAS RECONVENED AT 7:45 PM**

#### **MINUTES of March 8, 2005**

Councilmember Doak moved to approve the minutes of March 8, 2005 as submitted. Councilmember Jilek seconded. Motion carried 4-0.

#### **PUBLIC HEARING**

##### A. Alteration of a nonconforming structure, Julie Halbower, 2900 Gale Road –

Mayor Stark convened the public hearing for the Halbower's variance requests. They sought variances from the required south side yard setback for a new screen porch addition and for an addition to attach the existing detached garage to the home. They also asked for a variance of the required south side yard setback to alter a non-conforming garage. An additional variance from the maximum permitted structure height was also sought.

Matthew Halbower addressed the Council stating that his wife had met with staff and it was his understanding they were going before the Council for the alteration of a nonconforming structure permit. They were surprised to get a call from staff notifying them that their request had to be for variances and that staff has recommended denial of a portion of the request. They also did not get a copy of the staff report until just before the meeting. Mr. Halbower stated that he did not have sufficient time to consult with counsel regarding proof of hardship, but he elected to proceed with the hearing.

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Julie Halbower reviewed the plans for the house addition noting that they do meet the maximum permitted structure height at thirty-five feet and there is no need for a variance. The Council agreed and consideration of that variance was set aside. The existing principle structure complies with the minimum required front, lake and north side yard setbacks, but it encroaches approximately five feet into the required south side yard setback. The first variance request is for a screened porch on the southwest corner of the home and this would extend five feet closer to the south side property line than the principal structure. The Halbowers would like to be able to have a sufficient space so they could eat on the porch. The second variance request deals with an addition that is approximately fourteen feet by twenty-five feet and would attach the existing detached garage to the principle structure. It also encroaches into the required south side setback. This addition helps in foul weather conditions to get to and from the house safely. The final variance request is to alter the flat roof of the garage that is virtually on the south lot line to a pitched roof design. The current flat roof is structurally unsafe and does not match the roof of the principle structure.

Zoning Coordinator Karpas stated that his staff report recommending denial of the screenporch and the garage roof modification are based on his judgment that the property can be put to a reasonable use without the issuance of variances and the absence of demonstrated hardships. Mr. Karpas did recommend approval of the proposed addition to connect the detached garage because it can be argued that a practical difficulty exists in having a detached garage given the climate. This will provide protection from the elements when carrying out day-to-day tasks.

Mr. Halbower presented a second option to the Council, whereby the Halbowers would tear down the existing principal structure and build a new house. They are working with an architect and do not have all the costs in to date. They asked to live in the existing house while the new one is being built. The old structure would be torn down upon occupancy of the new home.

Mayor Stark opened the public hearing to the public. There being no public comment, the hearing was closed.

Zoning Coordinator Karpas asked the Council to act on each request individually and adopt Resolution No. 5-05 including the individual motions.

Councilmember Doak moved to deny the variance request to encroach ten feet into the required south side yard setback for the proposed screen porch addition. Councilmember Evenstad seconded. Motion carried 4-0.

Councilmember Doak moved to approve the variance request to encroach nineteen feet into the required side yard setback for the proposed addition to connect the detached garage to the principle structure. A practical hardship exists in having a detached garage given the winter climate. The construction will provide protection from the elements when carrying out day-to-day tasks. Councilmember Evenstad seconded. Motion carried 4-0.

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Councilmember Doak moved to approve the variance request to alter the roofline of the existing garage located twenty-nine feet within the required south side yard setback provided the applicant will submit documentation showing that the current flat roof is structurally unsound. Given snow loads, reconstructing the current flat roof would be a hardship and the new peaked design of the roof affords much greater safety. The roofline will not encroach any further to the south than the existing foundation walls with the exception of gutters to deal with water runoff. Councilmember Jilek seconded. Motion carried 4-0.

Councilmember Doak moved to grant permission for the Halbowers to occupy the existing home should they decide to build a new home on the property. They may occupy the existing home until the occupancy permit has been issued for the new home. The old home will be removed from the property. Councilmember Evenstad seconded. Motion carried 4-0.

Councilmember Doak moved to adopt Resolution No. 5-05 reflecting the motions stated. Councilmember Evenstad seconded. Upon roll call vote Stark, Doak, Evenstad and Jilek voted aye. Resolution No. 5-05 was adopted.

#### **MAYOR'S REPORT**

Mayor Stark reported the ice went out of Lake Minnetonka on April 9<sup>th</sup> at 4 AM.

Mayor Stark recognized and congratulated City Clerk Sandra Langley on being chosen by the South Lake-Excelsior Chamber of Commerce to receive one of two 2005 Community Hero Awards. The award is given to a person who helps make life better for one of us, or some of us, or all of us. Sandy was nominated for her selfless service to Greenwood during a time of transition and for the time and assistance and support she gave to Nancy Kelm at the start of her job as Greenwood City Clerk and throughout her illness.

Mayor Stark reported that Bruce Shilling has agreed to be the Health Officer for the City.

Peter Davis, 17901 Maple Hill Road and Cooper Ashley, 17900 Maple Hill Road, presented their views on navigable waters, pathways, lake water quality for year round recreational activities on Shavers Lake.

They asked the Council to consider a plan of action for updated docking, channel and pathway ordinances to reflect the essential character of the comprehensive plan. They asked for city support and influence with other governing bodies to encourage the use of up-to-date technologies and techniques to maintain water resource. Assuming that the City was taking financial responsibility for maintaining access to Woolsey Pond, they would like similar support for dredging Shavers Lake. Additionally they would like to have an educational program started in conjunction with neighborhood groups to address lake and pond water quality/access during all four seasons.

Councilmember Doak noted that Woolsey Channel was a navigable waterway and that residents on the Channel had dredged the waterway at their own expense over the years. He asked what kind of response the Woodland Shavers Lake residents had gotten from other Cities and

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Homeowner Associations and other property owners abutting Shavers Lake. Had the DNR been contacted and what were their recommendations? Mr. Davis reported no consensus had been reached among those abutting Shavers Lake. The DNR's position appeared unclear, but apparently relies on cooperation among all residents abutting Shavers Lake.

Councilmember Doak also stated the City has no funding in the city budget for improvements to Shavers Lake.

Mayor Stark noted that Shaver's Lake is private property, accessible only to only property owners.

City Clerk Langley stated she had talked with City Engineer Bill Engelhardt and was told that Shavers Lake has property boundaries in Woodland, Deephaven and Minnetonka. DNR states the water is public but there is no public access to this lake. When a waterbasin or watercourse is not navigable and was not meandered, the ownership of the bed is as indicated on individual property deeds. There is no public access to this lake. Mr. Engelhardt felt that if anything was going to be done to Shavers Lake that it would be up to all of the neighbors that live around the lake.

The Council encouraged Mr. Davis and Mr. Ashley to seek cooperation among all Shavers Lake residents.

## **REPORTS**

**Public Safety & Finance** – Councilmember Evenstad had no report.

**Roads & Signs** – Councilmember Doak stated we need to remind Center Point Energy to do the repairs to Maplewood Road. He also reported he will be looking for diseased or dead trees that need to be dealt with. Street sweeping will begin the week of April 25<sup>th</sup>.

**Web Site/Deer Management** – Councilmember Jilek reported the status of the Woodland website. He hopes to have it up and running by our May 9<sup>th</sup> Council meeting. The website address will be [www.cityofwoodlandmn.org](http://www.cityofwoodlandmn.org).

**Ordinances** – Councilmember Hornig was not present for a report.

Bill Dolan, 3100 Maplewood Road, asked to address the Council. He expressed support for the Council's denial of the variance request for the Bartus property. He stated he would be willing to assist the City in its litigation with Bartus by intervening in the case and by providing additional legal research at no cost to the City. He noted that Mr. Moss and Mr. Boller were also present in support of the Council's action on the variance. Mr. Boller sent a letter which was in the Council packet.

## **TREASURER'S REPORT**

Councilmember Evenstad moved to approve the Treasurer's Report as submitted. Councilmember Jilek seconded. Motion carried 4-0.

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**ACCOUNTS PAYABLE**

Councilmember Doak moved to approve the verified accounts in the amount of \$21,698.85 dated April 11, 2005. Councilmember Evenstad seconded. Motion carried 4-0.

**ADJOURNMENT**

Mayor Stark adjourned the meeting at 9:25 PM.

Respectfully submitted,

Sandra R. Langley, City Clerk