

WOODLAND  
CITY COUNCIL MINUTES  
Monday, June 11, 2007  
7:00 P.M.

**CALL TO ORDER**

Mayor Stark called the meeting to order at 7:00 P.M.

**ROLL CALL**

Present: Mayor Jean Stark; Councilmembers Tom Newberry, Jim Doak, and Mark Evenstad

Absent: Councilmember Michael Jilek

Staff: Police Chief Virgil Gustafson, City Attorney Joel Jamnik, City Planner Gus Karpas  
and Clerk Shelley Souers

Guests: Chuck and Wendy Weil

**CONSENT AGENDA**

**A. Council Minutes – May 14, 2007**

**B. Approve Service Agreement with Campbell Knutson**

**C. Approve LMCD Draft Budget**

Councilmember Doak moved approval of the consent agenda and approved the items contained within it. Councilmember Evenstad seconded the motion. Motion carried 4-0.

**PUBLIC HEARING**

A. Chuck and Wendy Weil, 2650 Maplewood Circle West – Request a Variance and Special Use Permit to construct a new accessory structure.

Mayor Stark opened the public hearing at 7:05 P.M. to consider the request for a Variance and Special Use Permit.

Zoning Coordinator Karpas summarized the staff report for the requested variance and special use permit, noting that the Weil's propose to demolish two existing structures, one 10'-7" by 8' and the other 18' by 6', located near the lake and construct one new 18' by 10'-6" structure in the place of the old structures. Information was not available regarding the age of the existing structures. The applicants propose to create a deck area on the flat roof of the structure and indicate there will be a three-foot high safety rail around the perimeter of the roof.

Section 900.10 permits a maximum impervious surface area of 25%. The existing impervious surface area on the property is 1.8%. There will be a minimal decrease of two square feet, in the overall impervious surface through the reconfiguration of the structures. The proposed impervious surface area will remain 1.8%.

Both structures to be removed sit within the required lake yard setback with the closest located approximately two (2) feet from the water's edge and the other approximately eight (8) feet from the water's edge. The proposed structure would have its longest dimension, eighteen (18) feet facing the lake and set back approximately eight (8) feet from the lake. The proposed structure setback requires approval for a variance from the required seventy-five (75) foot lake yard setback.

The existing structure closest to the lake does not comply with the required thirty (30) foot side yard setback along the north property line. The proposed structure would be constructed in compliance with the required side yard setback.

The property currently has five detached accessory structures. The proposed demolition and reconstruction will leave the property with four detached accessory structures. Section 900.04(2)(b)(8) requires the issuance of a Special Use Permit to exceed three detached accessory structures on a property.

The property currently contains 1,116 square feet of accessory structure area. Section 900.04(2)(b)(9) limits the amount of accessory structure area to the lesser of 1,000 square feet or 30% of the footprint area of the principal structure. In this instance, a maximum accessory structure area of 900 square feet would be permitted, based on the footprint of the principal structure. The proposed total square foot area of 1,114 square feet requires a Special Use Permit.

Section 900.04(2)(b)(6) permits a maximum accessory structure height of fourteen (14) feet. The proposed accessory structure would have a height of nine (9) feet to the plane of the flat roof. The proposed height complies with the ordinance requirements.

Section 900.10 limits the maximum area covered by all buildings to ten percent. The applicant proposes 5,694 square feet of total building area on the lot, equaling approximately 2.4% of the applicant's lot area. The proposed building coverage complies with ordinance requirements.

Zoning Coordinator Karpas stated that staff recommends approval of the Variance and Special Use Permit, conditioned on rotation of the proposed structure so that the narrow façade faces the lake and the length of the structure is set into the slope. The applicant must also provide evidence to the City that all required permits have been obtained from the Minnehaha Creek Watershed District and Minnesota Department of Natural Resources prior to the issuance of a building permit. Staff agreed that the need and potential for continued use would be better served through a new structure. The structure will serve as a storage space for lake equipment. Staff feels the proposed structure is compatible with the surrounding area and does not believe there will be a negative effect on use of adjacent property. Zoning Coordinator Karpas reported that one response was received from a resident who was in support of the proposed request.

Mr. Weil stated that they spoke with the adjacent neighbors and received favorable support. Mr. Weil requested approval of the structure placement as drawn and presented. He noted that turning the accessory building will cause more excavation of the hillside and add cost to the project. The total number of accessory structures will be reduced to four and the square footage will not be increased.

Mrs. Weil stated that all of the out buildings existed when they purchased the property. The two buildings to be removed are functionally inadequate and in poor condition.

Councilmember Doak asked if the owners have contacted the Minnehaha Creek Watershed District. Mrs. Weil responded that they have placed a call into the district.

Councilmember Evenstad stated the proposal is more aesthetically pleasing and reduces the current structure frontage to the lake from 24 feet to 18 feet. He agreed the proposal fits with the neighborhood and is supportive of the proposal as presented.

Councilmember Doak noted that the structures existed prior to current zoning restrictions and agrees that the proposed design is an improvement. The homeowner needs to check with all other permitting districts.

Councilmember Newberry asked if there were plans to install a bathroom. Mrs. Weil stated that no bathroom is proposed or planned.

There being no further comments, Mayor Stark closed the public hearing at 7:13PM.

**Councilmember Evenstad moved to approve the request as proposed for a Variance of the lake setback and a Special Use Permit to exceed the maximum permitted accessory structures and a Special Use Permit to exceed the maximum accessory structure area as proposed in the plans provided in item 4A with the condition that all appropriate environmental permitting be obtained. Councilmember Doak seconded the motion. Motion carried 4-0.**

## **OLD BUSINESS**

### **A. Recreational Fire Permits**

Council reviewed the current City ordinance dictating recreational fires and discussed whether to require permits for recreational fires.

Councilmember Doak stated that having homeowners come into the City office to obtain a permit gives the City the opportunity to provide the homeowner with the rules and regulations for recreational fires. Additionally, the City can remind residents that having a recreational fire can cause a response by the fire department and the homeowner would be subject to fire call charges.

Mayor Stark stated that she is not supportive of a permit requirement for recreational fires.

Councilmember Evenstad suggested that a more restrictive definition of recreational fires be adopted.

Councilmember Doak stated that residents need to understand if the fire department responds to the recreational fire, they are responsible for fire call charges.

Mayor Stark agreed with amending the ordinance language to further define recreational fire parameters.

Councilmember Evenstad suggested that language be added to the ordinances regarding the homeowner's responsibility to pay the City for all fire calls made by the fire department stemming from recreational fires.

Councilmember Doak agreed with providing information in the next newsletter addressing the rules and responsibility associated with having a recreational fire.

Council was supportive of limiting the size of a fire to 36 inches wide diameter with a flame not to exceed two feet in height, (language similar to the City of Excelsior's restrictions). No permit will be required but the ordinance language be amended to restrict the allowable size and incorporate the guidelines addressing the setback from any structure to 25 feet.

Attorney Jamnik will draft ordinance changes for review at the meeting in July.

## **NEW BUSINESS**

### **A. Ordinance Clarifying Impervious Surface Restrictions**

Council reviewed the language in Ordinance 900.10 regarding impervious surface cover restrictions. Council agreed that the language could be amended to clarify the need for a variance or special use permit.

Zoning Coordinator Karpas presented a draft revision of the ordinance language for review and suggested Council consider amending the ordinance to clarify when a variance versus a special use permit would be required for impervious cover additions. Based on his suggestions a variance would be required for reconfiguration of existing impervious cover that exceeds the maximum allowed.

Council agreed the variance standards allow the Council more discretion over requests to exceed the maximums.

Councilmember Newberry noted that large structures can be more intrusive. The ordinance amendments would require a variance to exceed the permitted number of accessory buildings, for example, giving the Council more tools to insure conformity with the Comprehensive Plan.

Zoning Coordinator Karpas noted that owners of large properties may have difficulty showing a hardship for an accessory use and believes that the special use permit process was put in place so it would not be so difficult to get accessory uses approved. As an example, Zoning Coordinator Karpas noted that homeowners whose properties have with a tennis court or swimming pool would be precluded from adding multiple or even a single accessory structure, since they would have met the maximum area of permitted accessory structures.

Attorney Jamnik stated that the concept of "hardship" has undergone considerable reinterpretation by the Courts in recent years. The hardship criteria is now a subjective determination that the proposed use is "reasonable" and not out of character with the community. It is considered reasonable to have a recreational activity such as a pool or tennis court for residential use. If an applicant makes a request and Council deems that it is reasonable for the residential zone, denial of the variance request becomes a practical difficulty that meets the

hardship standard used in the City. The burden of showing reasonableness falls on the applicant for a variance. A conditional use or special use permit is subject to much easier standards and it falls to the city to show why such a use does not meet standards.

Councilmember Doak asked if a resident of a property requests to add a pool and a tennis court and the impervious cover limit would be exceeded, could the variance request could be denied as an unreasonable increase in hardcover.

Attorney Jamnik responded that the degree of variance or deviation is cause for the Council to react in favor or against. Council needs to consider what degree of departure or deviation should be considered reasonable.

Councilmember Evenstad asked how an applicant can show hardship for a tennis court.

Attorney Jamnik responded that there may be issues with the shape of the lot or existing structures or slope. The property owners need to bring in all factors as to why the request is reasonable.

Councilmember Newberry stated that consideration of a request for variance for a swimming pool, tennis court or other similar structure, if it were the only major outdoor recreational structure on the property, would have impact on the decision. The total number of accessory structures on a property also needs to be considered.

Council will hold a public hearing on proposed ordinance amendment in July. Staff will prepare amendments as directed and notice of the hearing.

### **B. Swimming Pool Fencing**

Attorney Jamnik reported that the Uniform Building Code has a provision in the code for pool enclosures; however, Minnesota has not adopted the provision. The City can add restrictions to their local ordinances.

Councilmember Doak noted that communities with pool ordinances may be more densely developed than Woodland. Doak questioned if the City bears any liability for incidents in a private pool.

Attorney Jamnik noted that failure to act on or adopt a regulation does not create a liability for the City. Some insurance policies dictate whether homeowners fence in pools.

### **MAYOR'S REPORT**

Mayor Stark reported that Wayne Nelson has resigned as the City's liaison to the Minnetonka Community Education Services (MCES). The City will put a notice in the newsletter to seek a volunteer to serve as the liaison to the MCES.

#### Chief Gustafson Retirement

Mayor Stark, on behalf of the entire Council and community, thanked Chief Virgil Gustafson for his years of service and outstanding commitment to the City of Woodland. Mayor Stark presented Resolution No. 8-07, recognizing Chief Gustafson for his service and efforts. Mayor Stark also noted that there will be an open house at the City Hall on Friday, June 29 from 1:30 P.M. – 4:00 P.M. to visit with Chief Gustafson.

**Councilmember Evenstad moved to adopt Resolution No. 8-07, recognizing Chief Gustafson for his service to the City of Woodland. Councilmember Doak seconded the motion. Motion carried 4-0.**

Mayor Stark reported that she has received calls regarding a coyote in the City.

Chief Gustafson noted that there are coyotes in Woodland and Deephaven. The DNR permits trapping and killing and can recommend trappers to remove coyotes. The approximate cost is \$100 per animal. Chief noted that Woodland allows dogs at large which could present the potential of leg-trapping a dog in a coyote trap. Coyotes do not bother people and should not be confused with wolves. They will go after cats and rabbits. Chief noted that small dogs and cats can also be at risk from fox and hawks also.

Councilmember Evenstad expressed concern that removing certain predators from residential neighborhoods can increase the small rodent population of squirrels and rabbits.

#### **COUNCIL REPORTS**

##### **Public Safety**

Chief Gustafson noted that the Water Patrol has put up a sign at the entrance of Woolsey Channel dictating the speed.

Councilmember Doak will draft a letter to the surrounding residents of Woolsey Channel regarding the speed limit and that it is a no wake zone.

Councilmember Evenstad noted that there are unusual vegetation and a foamy algae growing in Woolsey Pond and is concerned that it could be an issue with a nearby septic system.

The Septic Inspector will start reviews in July and staff will ask him to look at the vacant property adjacent to Woolsey Pond.

##### **Roads**

Councilmember Doak reported that he met with the engineer Dave Martini regarding the road improvements.

Council reviewed the engineer's estimates for seal coating several roadbeds and repairs to the low area in Breezy Point Road.

Councilmember Doak recommends that Council move forward with the seal coating as outlined for Spirit Knob Road, Gale Road, Maple Hill Road and Blaine Avenue.

Painting the center line and fog lines is expensive and Breezy Point Road is scheduled to be seal coated in 2008. Painting new lines on the roadway would not be warranted.

Staff will contact the engineer to move forward with quotes for seal coating the roads identified in the report and repairs to Breezy Point Road.

Councilmember Doak reported that the rights-of-way will be mowed and he will contact Aaron's tree service to trim trees along the roadways and away from signs.

Councilmember Doak stated that he will be meeting with the residents on Breezy Heights Road regarding the curve and visibility concerns. There is an old tennis court on the left side of the road and possibly removing the fencing could improve visibility. Snow storage can also be a challenge along the roadway. There have been no accidents along the roadway, but he would like to get a neighborhood consensus on whether any major changes that could be made.

**Website** – No report

**Ordinances** – No report

#### **TREASURER'S REPORT**

Councilmember Evenstad moved approval of the Treasurer's Report as submitted.  
Councilmember Newberry seconded the motion. Motion carried 4-0.

#### **ACCOUNTS PAYABLE**

Councilmember Newberry moved approval of the Accounts Payable as submitted.  
Councilmember Doak seconded the motion. Motion carried 4-0.

#### **ADJOURNMENT**

Council unanimously moved to adjourn the regular meeting at 8:30 P.M.

Respectfully submitted,  
Shelley Souers