

WOODLAND
CITY COUNCIL MINUTES
Monday, August 13, 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, Mark Evenstad and Michael Jilek; City Health Officer, Dr. Bruce Shilling

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

Guests: Kyle Hunt, Patrick and Mary Louise Bowe, Steve Hornig and Dr. Richard Salmela

CONSENT AGENDA

A. Council Minutes – July 9, 2007

Councilmember Doak moved approval of the consent agenda and approved item A. contained within it. Councilmember Jilek seconded the motion. Motion carried 5-0.

PUBLIC HEARING

A. Patrick & Mary Louise Bowe, 18150 Breezy Point Road – request a variance of the required side yard setback to construct a new two-story home on the lot and a variance of the maximum permitted accessory structure area and the maximum number of accessory structures permitted on a lot to construct a sports court and in-ground pool.

Mayor Stark opened the public hearing at 7:01 P.M. and asked that the City Attorney Joel Jamnik address this request.

City Attorney Joel Jamnik noted that the application process the City uses dovetails the City Ordinances and State Statutes. Under those procedures owners are to apply or co-sign the application. The City has learned that the current owners did not co-sign the Bowes' application. Under City procedures the application filed by the Bowes and their agents should have been deemed incomplete when filed because the Bowes had not yet closed on the property. The Bowes are still not the owners of the property to-date. The City should not have started the process until the owners' co-signatures were on the application. The Council has two options, 1) table the matter until such time the property closes; 2) deny the application based on the defects in the filing documents. Attorney Jamnik recommended that, for the City's protection and the property owner's protection, the City deny the application rather than table the request. Attorney Jamnik stated that the reason for his recommendation is that jurisdictionally the City needs to establish its right to conduct a hearing and consider the variance. The City had a flawed initial procedure, and if Council proceeds with the tabling of the request, Attorney Jamnik stated that,

jurisdictionally, he was not sure if the City can start the 60 day timeline over and have a legally defensible procedure, given the facts in this situation.

Attorney Jamnik continued, stating that the impact to the property owner and applicant is the additional mailing and publication costs. By denying tonight and having the applicants, after closing, refile the application, with all the current materials and set it for a hearing, would ensure the proper procedure, for the September 10 Council meeting.

Attorney Jamnik stated that he will answer questions, however, given his recommended action he asked that Council not engage in any substantive discussion of the application because tonight the Council does not have proper jurisdictional authority to do so, but rather act on the procedural matter to deny tonight and allow the applicants to refile the application after they close and become the owners of the property.

Mayor Stark closed the hearing at 7:04 P.M.

Councilmember Evenstad asked if denying the request was denying the substance of the request or just the procedure.

Attorney Jamnik stated that recommendation and action tonight is denied based solely on the procedural aspects of the filing and does not address any of the substantive aspects regarding reasonableness, hardship or other criteria.

Councilmember Doak asked about the filing deadline for the September Council meeting.

Zoning Coordinator Karpas noted the deadline is August ninth, which is an arbitrary date set by staff to allow time to prepare publication documents for public hearing notices. Zoning Coordinator Karpas confirmed that if the property was closing on Friday, the applicants can notify the City of their intent to proceed following the closing. There would not be an issue with regard to the deadline for publication.

Councilmember Evenstad moved to deny the variance request under item 4a on the Council Agenda, based on a defective application. Councilmember Doak seconded the motion. Motion carried 5-0.

Attorney Jamnik stated that once the applicants close on the property they can file the application on the same day and bring a copy of the closing documents for the record.

OLD BUSINESS

A. Well Water Testing Report - Dr. Bruce Shilling

Mayor Stark welcomed City Health Officer, Dr. Bruce Shilling to the meeting to report on the recent water testing.

Dr. Shilling reported on the recent well water testing for coliform bacteria, lead and arsenic. Dr. Shilling stated that one household on Woolsey Lane had trace amounts of Ecoli bacteria detected in the water sample drawn by the homeowner. The homeowner was contacted and has retested the water. No trace amounts of bacteria were detected with the second test.

The Council previously approved an arsenic test of four private wells. Dr. Shilling drew the samples and Twin City Water Testing conducted the test.

Dr. Shilling reported that one water sample tested positive for trace amounts of arsenic. That water sample had 16ppb (parts per billion) of arsenic detected. The Minnesota Health Department standard for safe drinking water is less than 10ppb of arsenic. Dr. Shilling reported that the arsenic was detected in the well water of a newly constructed house with an elaborate plumbing system. Arsenic is a natural occurring metal found in deep layers of shale and glacial deposits. Because all private wells are at different depths, it is not uncommon for adjacent wells to have no trace amounts of arsenic.

Dr. Shilling reported that he has contacted the homeowners and encouraged them to retest and evaluate their water from two locations, at the holding tank and kitchen sink. Dr. Shilling and City staff will prepare a summary regarding the water testing for the September newsletter. Dr. Shilling recommends that every household test for arsenic at least once in the lifetime of the well.

Councilmember Evenstad asked about the health risk of the level of arsenic detected at (16ppb) in one sample.

Dr. Shilling stated that arsenic can affect the brain growth in small children and can cause a loss of red blood cells and a change in skin and nail tissue in adults.

Steve Hornig, 2830 Breezy Heights Road, asked about the toxicity level of arsenic.

Dr. Shilling reported that amounts over 10ppb is considered unacceptable for drinking water according to the standards set by the health department.

Mayor Stark thanked Dr. Shilling for all his time and work with the water testing project.

B. 2008 Contract with Deephaven for Shared Services – Resolution No. 10-07

Mayor Stark reported that she met with Dana Young, Deephaven's Administrator, regarding the shared service agreement between Deephaven and Woodland. Mayor Stark stated that she asked Mr. Young to consider a reduction in the permit revenue that Deephaven retains each year. Mayor Stark reported that Deephaven will not be making any changes or reductions in the 2008 agreement.

Councilmember Doak moved to adopt Resolution No. 10-07 for the 2008 contract for shared services with the City of Deephaven. Councilmember Evenstad seconded the motion. Motion carried 5-0.

NEW BUSINESS

A. Road Fund Account for 2008

Councilmember Evenstad reported that Clerk Souers spoke with the City Auditors Abdo, Eick and Myers regarding establishing a separate street improvement fund. There are no accounting

issues with creating a separate fund and he recommends the City create a street improvement fund starting in 2008.

Councilmember Evenstad moved to approve the creation of a separate Street Improvement Fund and to transfer money from the General Fund as needed. Councilmember Jilek seconded the motion.

Councilmember Doak suggested that the new fund be used for road improvements as well as maintenance projects and therefore be called Street Maintenance and Improvement Fund.

*Councilmember Evenstad amended the main motion clarifying the name of the fund to Street Maintenance and Improvement Fund. Councilmember Doak seconded the motion.
Motion carried 5-0.*

B. Review Draft 2008 Budget

Council reviewed a draft balanced budget for 2008 revenues and expenditures. Budgeting for 2008 expenditures, including new street improvements would increase the levy 16% from 2007.

Councilmember Doak summarized the road improvement cost estimates prepared by Bolton and Menk addressing future road improvements. Some of the improvement scenarios include major restoration and will be expensive. Soil boring would also be necessary prior to doing major projects. Councilmember Doak stated there is a need to repair the low swale along Breezy Point Road, but would rather not sacrifice the maintenance of the other roads. Councilmember Doak suggested that Council consider street improvements for Breezy Point Road in 2008, including either Option 1 or Option 2 of the Bolton and Menk estimates for 2008.

Councilmember Doak stated that establishing a Street Maintenance and Improvement Fund will allow the City to build up a balance over several years making Option 3 and Options 4 of the Bolton and Menk estimates viable options in the future.

Mayor Stark noted that fog lines were included in the estimate for Breezy Point Road.

Councilmember Doak noted that fog lines will not be part of the improvements and would reduce the estimated project improvements costs for Breezy Point Road.

Councilmember Doak recommended that the 2008 improvements for Breezy Point Road include Option 1: Mill and Repair Cracks on the West End of Breezy Point Road. Councilmember Doak stated that he will meet with the engineers and review the preliminary road project estimates again.

Councilmember Newberry asked if the engineer Dave Martini was aware of the future construction of County Road 101 and what affect the construction might have on Breezy Point Road.

Councilmember Doak stated that the engineers are aware of the County 101 project, however, the County Road project may not be completed until 2011.

Mayor Stark noted that the tax levy would increase 16.5 percent from 2007, in part to allocating a large amount of money for the Street Fund. The proposed tax levy will need to be adopted in September.

C. 2007 Septic System Summary Report

Council reviewed a summary of the 2007 septic system reviews completed by the Septic Inspector Kurt Larsen in July. Several systems were found to be in need of pumping. No systems were deemed failing according to Kurt Larsen's reviews.

MAYOR'S REPORT

Mayor Stark reported the League of Minnesota Cities (LMC) had emailed Mayors noting that there were many volunteer responders to the Minneapolis I35 W bridge collapse from surrounding communities. The LMC reminded cities to check with their insurance providers prior to providing assistance to other communities to be certain any liability issues are covered.

Councilmember Newberry asked if the LMC could clarify the liability that a staff or council may be open to in aiding other communities.

Clerk Souers will contact the LMC for clarification on the liability issue.

Mayor Stark reported that Gary and Deb Nelson sent a letter to the Council regarding activity in Woolsey Pond and authorizing the police to park on their property to observe the boat activity in Woolsey Pond and channel.

A copy of the letter will be given to the police department. Staff was directed to send a note of thanks to the Nelsons for their letter and suggestions.

COUNCIL REPORTS

A. Public Safety & Finance

The police continue to monitor Breezy Point Road in an effort to control traffic speeds.

B. Roads & Signs

Councilmember Doak reported that there are several large dead trees along Breezy Point Road and Maplewood Road that need to be removed. A large dead red elm tree is on the road right-of-way and he has contacted Aaron's Tree Service to remove the red elm tree. The other dead trees are on private property. Councilmember Doak stated that he will contact the owner of the property and request that they remove the dead and diseased trees.

C. Web Site & Deer Management

Councilmember Jilek stated that he will work with staff to obtain the annual deer management permit for fall.

D. Ordinances

Councilmembers Doak and Newberry will draft operational guidelines to be used for zoning requests and establish guidelines when Council will speak with applicants applying for zoning requests.

TREASURER'S REPORT

*Councilmember Evenstad moved approval of the Treasurer's Report as submitted.
Councilmember Doak seconded the motion. Motion carried 5-0.*

ACCOUNTS PAYABLE

*Councilmember Evenstad moved approval of the Accounts Payable as submitted.
Councilmember Jilek seconded the motion. Motion carried 5-0.*

ADJOURNMENT

Council unanimously moved to adjourn the regular meeting at 8:15 P.M.

Respectfully submitted,
Shelley Souers