

WOODLAND
CITY COUNCIL MINUTES
Monday, September 10, 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

Staff: City Attorney Joel Jamnik, City Planner Gus Karpas and Clerk Shelley Souers

Guests: Kyle Hunt, Patrick and Mary Louise Bowe, Steve and Penny Hornig, Peter MacDonald, Peter and Lawny Pflaum, Patrick and Andrea Bassett, and Sally Koenecke.

CONSENT AGENDA

- A. Council Minutes – August 13, 2007
- B. Deer Management 2007
- C. Adoption of Ordinance No. 7-05 updating the UBC

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

Review & Approval of Well Water Testing Recommendations

Health Officer, Dr. Bruce Shilling presented his recommendations regarding the recent well water testing for coliform bacteria, lead and arsenic.

Council reviewed Dr. Shilling's letter of recommendations to test private wells for different components. This letter will be placed in the October newsletter.

Dr. Shilling reported that one household tested positive for arsenic levels above the minimum standard of 10ppb. Dr. Shilling recommended that each household test their well water once for arsenic during the life of the well.

Dr. Shilling stated that the quality and safety of drinking water is the responsibility of the homeowner. Homeowners drawing water from the City of Minnetonka should consult the City of Minnetonka for information on that municipal water system.

Council recommended that the water testing recommendations from Dr. Shilling be placed in the October newsletter.

PUBLIC HEARING

Mayor Stark asked if Mr. and Mrs. Bowe had any comments prior to opening the public hearing on their request.

Mr. Bowe addressed the Council and public stating that he and his wife are looking forward to moving into Woodland. Prior to developing house plans for their property, they met with the neighbors regarding their plans. Some concerns were expressed by the neighbors regarding

their proposal and have decided to withdraw the request for a variance of the side yard setback to build a home and will build within the building pad as defined by the City's zoning code.

The Bowes' submitted a letter to the City Council requesting to formally withdraw the portion of the variance request for the side yard setback for new home construction.

Mr. Bowe stated that they wish to proceed and request Council approval for the second part of their variance request for impervious cover relating to the proposed accessory structures (sports court and swimming pool).

Mr. Bowe stated that there are currently three accessory structures on the property that include a separate garage for the main house, a guest house and a guest house garage. The desire was to spread out the development on the property and use the natural surrounding trees and reduce the concentration around the lake. The design created by the architect, Peter MacDonald, located the sports court and swimming pool near the center of the property and the guest house. This plan has been shared with the neighbors as well and there did not seem to be any concern with the placement of the new accessory structures. They request Council review and approval of the accessory structures.

Attorney Jamnik emphasized that the letter from Mr. and Mrs. Bowe was to withdraw the portion of the application addressing the proposed house (application 1). Attorney Jamnik recommended that Council make a motion to accept the letter withdrawing the request for a side yard setback and table action on application for variance number 1 and proceed on variance number 2 (accessory structures).

Councilmember Doak moved to accept the Bowes' request to remove the variance for side yard setback for the proposed house from the agenda. Councilmember Evenstad seconded the motion. Motion carried 5-0.

Pat & Mary Louise Bowe –18150 Breezy Point Road, request a variance of the maximum permitted accessory structure area permitted on a lot to construct a sports court and in-ground pool.

Mayor Stark opened the public hearing at 7:06 P.M. to consider the second portion of the variance request addressing the proposed accessory structures.

Zoning Coordinator Karpas reported that the variance is to exceed the maximum permitted accessory structure square footage area. Under the current ordinance 1000 square feet of accessory structure area is permitted. The applicant is proposing a total square foot area of 6900 square feet which is an increase over the existing area of approximately 2,300 square feet. The variance would be for 5,900 square feet of accessory structure area.

Zoning Coordinator Karpas stated that he recommends approval of the variance request for the proposed accessory structure area. He noted that even though the applicant does not meet the specific criteria outlined in the ordinance Section 900.14, (2), the request is a reasonable

and customary use in the R-1 District. His interpretation of the code in relation to accessory structure area was to limit massing on a property which could have detrimental effects on adjacent properties. He noted the proposed structures are at and below grade and would not add to massing, therefore, he recommended approval based on the reasonableness of the use.

City Attorney Jamnik stated that the Council will need to make the finding per the ordinance regarding reasonable use, unique circumstances and character of locality to approve or deny the application. The other alternative is to change the ordinance.

Peter MacDonald, architect, stated that the ordinance change is recent and they recently met with the City staff, City Attorney and Council to better understand the changes and intent. Their understanding of the ordinance change is that Council did not wish to prohibit accessory uses that are custom and typical to the area, but to have an opportunity to review their location and the appropriateness based on the size of the site. Also the intent of the ordinance change seemed to be to control the volume of activity located in close proximity to neighbors. Based on their understanding of the intent they worked on a design to place the pool so that it was not located in the lake side yard and placed so that it would not impact adjacent properties. The same rationale was used in determining the location for the sports court.

Councilmember Evenstad stated that when Council considered the change to the ordinance, one of the issues that were not changed was the square footage requirements, so that the request for 6,900 square feet appears to be a massive difference from what was allowed in the past. Councilmember Evenstad noted that Mr. MacDonald was correct that the visibility and placement of the structures can make an impact. Councilmember Evenstad suggested that at a future meeting the Council can clarify the ordinance so that accessory uses are appropriate for the property and spread across the property in an appropriate manner.

Mrs. Hornig asked if the little [guest] house was considered an accessory structure.

Councilmember Evenstad responded that it is considered an accessory building.

Mr. Bowe reiterated that the pool and court are at grade and they are not building a pool house or tennis house. There will be fencing for the court.

Mr. MacDonald stated that they considered alternatives, one being removing the existing 2-car garage and adding a 4-car garage attached to the house. That would eliminate one of the accessory structures, but increase the mass of the main house. Another option would be to rebuild the existing cottage in the same location and attach the guest house garage to the guest house, thus eliminating another accessory structure. Mr. MacDonald stated that it seems to be in character with the neighborhood to have detached garages.

Councilmember Doak asked for clarification as to the structure area of the accessory building currently on the lot.

Zoning Coordinator Karpas stated that there is 2,296 square feet of accessory building and the proposed would be up to 6,900.

Councilmember Evenstad noted that the added square footage will be at grade in the pool or sports court.

Zoning Coordinator Karpas suggested that a condition be placed on any motion for approval that the placement of the proposed structures be as submitted to Council in the location and dimensions.

Mayor Stark closed the hearing at 7:22 P.M.

Councilmember Newberry moved finding reasonableness for the proposed sports court and pool as both are sufficiently removed from adjoining neighbors and the visual massing is minimal because they are at grade. The property is unique in its circumstances due to the location relative to neighbors. Given the location of the proposed structures, there is no effect on the essential character of the locality. Subject to the structures being built in the place and in the size shown on the plan. Therefore, approval for variance should be granted. Councilmember Doak seconded the motion. Motion carried 5-0.

Patrick and Andrea Bassett - 2670 Woolsey Lane, request an alteration of non-conforming structure permit to demolish a portion of an existing non-conforming structure and construct a new addition in its place in the lake setback.

Mayor Stark opened the public hearing at 7:24 P.M. to consider the variance request for alteration of a nonconforming structure.

Mrs. Bassett addressed the Council stating that the east side of the house was built in 1940 and is the side of the house they want to keep. The westerly side of the house was added in 1970 and is the portion proposed to be removed and replaced. The area would be replaced with the same type of living space as in place, family room, master bedroom and garage space. The house currently sits 33 feet from the side lot line and 59 feet from the lake. The new addition would meet the side yard setback of 30 feet and will not encroach into the lake setback any further than what currently exists. Mrs. Bassett continued, stating they are seeking approval for an alteration of a non-conforming structure to remodel the house because they will be within the 75 foot lake setback.

Councilmember Doak asked if the motion needs findings.

Attorney Jamnik stated that the Council has the option to attach conditions, but no findings are needed.

Zoning Coordinator Karpas stated that the ordinance requires a septic system compliance prior to a building permit being issued and asked the applicants to provide the status of the current septic system.

Mrs. Basset noted that they added onto the existing septic system in 2000 with the construction of a guest house and they will confirm that is adequate.

Zoning Coordinator Karpas asked about proposed tree removal.

Mrs. Bassett stated that she will confirm with the contractor, but believes that two trees may be moved and two will be taken down.

Zoning Coordinator Karpas stated that the contractor or owner will need to submit a tree replacement schedule for review.

Zoning Coordinator Karpas clarified the structure setback outlined in the staff report, noting that the proposed new construction setback to the east property line will be 83 feet. The existing house is 24 feet from the east side property line and no construction will take place on this portion of the house. The proposed structure alteration would be 30 feet from the west side yard property line.

Mayor Stark closed the public hearing at 7:30 P.M.

Councilmember Evenstad moved to approve the request for an alteration of non-conforming structure permit as presented with the clarification that the owners will not be tearing down the east side living space up to 83 feet and the structure will remain the same on the east side at a 24.4 foot setback. Councilmember Jilek seconded the motion. Motion carried 5-0.

NEW BUSINESS

B. Resolution No. 11-07 Adopting the Proposed 2008 Budget

Council reviewed the proposed budget for 2008.

Councilmember Evenstad stated that he spoke with Fire Chief Klapprich regarding the 2008 budget and learned that the ratio of Woodland's calls is down this year. Councilmember Evenstad suggested that the City reduce the fire budget from \$21,000 to \$17,000. Council also lowered the budget for legal fees based on year-to-date costs. After budget discussions the overall budget expenses were reduced \$9,300, to \$292,282.

C. Resolution No. 12-07 Adopting the Proposed Tax Levy

Council reviewed the proposed levy collectible in 2008 and based on the reduced budget expenditures for 2008 the levy was reduced to \$264,451 in order to balance the budget. Council will adopt the final budget and levy in December.

Councilmember Newberry moved approval of Resolution No. 11-07 and Resolution No. 12-07 as modified with the reductions to the budget and levy. Councilmember Evenstad seconded the motion. Motion carried 5-0.

A. Lake Minnetonka Communications Commission (LMCC) – Budget approval and Joint Powers Agreement Amendments – Executive Director, Sally Koenecke

Sally Koenecke, Executive Director of the Lake Minnetonka Cable Commission (LMCC) was present to explain the proposed amendments to the LMCC joint powers agreements and budget for 2008.

Ms. Koenecke explained that the LMCC has been in operation for over 20 years. Their legal counsel is recommending several changes to the language of the Joint Powers Agreement. Also the annual budget is sent to each member City for approval. One of the changes in the language dictates that if a member City does not respond to the budget approval, their vote will be counted as a yes by default. Ms. Koenecke stated that there are several Cities that do not respond in a timely manner and with the proposed changes to the joint powers agreement the LMCC can move forward even if all Cities do not respond by the deadline.

Councilmember Newberry moved approval of the LMCC amendments to the Joint Powers Agreement. Councilmember Evenstad seconded the motion. Motion carried 5-0.

In response to Councilmember Doak's question about Qwest's recent request for franchise information, Ms. Koenecke stated that Qwest is talking with the State in an effort to provide service without obtaining franchise agreements.

Councilmember Doak asked if satellite providers operate without a franchise agreement.

Ms. Koenecke stated that satellite service providers do not need a franchise agreement because they are not using the public rights-of-way. Ms. Koenecke stated that cable companies have suggested that Cities create barriers to new cable companies coming in because of all the protections and franchise clauses. The LMCC encourages competition because it drives prices down and service up, but noted that franchise fees pay for public access facilities.

Councilmember Jilek asked if there are any updates to wireless service.

Ms. Koenecke reported that the LMCC is monitoring the progress of both Minneapolis and St. Louis Park's recent wireless capabilities. The LMCC is not going forward with wireless service at this time but will continue to study the matter.

Ms. Koenecke addressed the LMCC proposed 2008 budget, noting that the LMCC has made upgrades to their programming and are working with more non-profit organizations to share information. The LMCC has also budgeted to upgrade their equipment to digital. The budget costs are covered by franchises fees and peg fees from subscribers.

Councilmember Newberry moved to approve the LMCC budget for 2008. Councilmember Doak seconded the motion. Motion carried 5-0.

MAYOR'S REPORT

Mayor Stark reported that Minnetonka Communities Educations Services is looking for a volunteer representing Woodland to participate on the board. Clerk Souers will put a notice in the October newsletter.

COUNCIL REPORTS

A. Public Safety & Finance

Councilmember Evenstad suggested that information be placed in the October newsletter regarding fire calls and related charges.

Councilmember Evenstad asked if City Attorney Jamnik could provide some definition regarding accessory structures.

Councilmember Doak suggested that City Attorney Jamnik advise the Council on the rules dictating open meetings and the test for variance and hardship criteria.

B. Roads and Signs

Councilmember Doak reported that he asked the Police Chief to notify the City if an officer notices trees that could cause a potentially dangerous situation or should be trimmed or removed. Councilmember Doak suggested that it may be a good idea to clarify by ordinance the roles of the Police and City contractors in removing trees that are deemed dangerous before they fall and cause damage or injury.

Councilmember Doak stated that he will be working with the City Attorney, Zoning Coordinator and City Prosecutor regarding a clear cutting issue on Woolsey Lane to ensure there is adequate replanting of trees.

Councilmember Newberry stated that he supports the recommendation of the City Attorney and will also speak with Dr. Bruce Shilling to learn how the City handled past tree removal issues.

Councilmember Jilek suggested more information be placed in the newsletter regarding tree cutting and replanting.

Councilmember Doak suggested that every person obtaining a tree trimming license in Woodland be given a copy of the tree removal and replanting ordinance.

Councilmember Doak reported that he spoke with Tim Lovett regarding snow plow services for 2007/2008. He will submit a bid for the next Council meeting.

C. Web Site & Deer Management

No report.

D. Ordinances

Councilmembers Newberry reported that he and Councilmember Doak are drafting operational guidelines to be used for zoning requests and will address this issue at an upcoming Council meeting.

TREASURER'S REPORT

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

ACCOUNTS PAYABLE

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

ADJOURNMENT

Council unanimously moved to adjourn the regular meeting at 8:41 P.M.

Respectfully submitted,
Shelley Souers