

CITY COUNCIL MINUTES
Monday, January 12, 2009
7:00 P.M.

OATH OF OFFICE

City Clerk Souers administered the oath of office to newly elected Mayor James Doak and Councilmembers Sliv Carlson and Mike Jilek.

CALL TO ORDER & PLEDGE OF ALLEGIANCE

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

ROLL CALL

Present: Mayor Jim Doak; Councilmembers, Michael Jilek, Tom Newberry, Sliv Carlson and Troon Dowds.

Absent: None

Staff: Police Chief Cory Johnson, Zoning Administrator Gus Karpas, City Attorney Joel Jamnik, City Engineer Dave Poggi and Clerk Shelley Souers.

Guests: Jean Stark, Bill Carlson, Pat & Mary Louise Bowe, Troon Dowds and Jeff Feulner

RESOLUTION NO. 01-09; DECLARING A VACANCY ON THE CITY COUNCIL AND APPOINTING A RESIDENT TO FILL THE REMAINING TERM OF THE COUNCIL VACANCY.

Councilmember Jilek moved to approve Resolution No. 01-09; declaring a vacancy and appointing Troon Dowds as Councilmember to fill the remaining term of Jim Doak. Councilmember Newberry seconded the motion. Motion carried 4-0.

OATH OF OFFICE TO APPONTEED COUNCILMEMBER-

City Clerk Souers administered the oath of office to newly appointed Councilmember Troon Dowds.

CONSENT AGENDA

A. Minutes of the Council Meeting, December 8, 2008

B. Setting the Date of the Annual Board of Review – April 13, 2009

Councilmember Newberry moved to approve the consent agenda to include items A & B.

Councilmember Carlson seconded the motion. Motion carried 5-0.

NEW BUSINESS

A. Resolution No. 02-09 and 03-09; recognition of outgoing Council members Jean Stark and Mark Evenstad.

Mayor Doak presented Resolution No. 02-09 in appreciation to outgoing Mayor Jean Stark for her dedicated service and leadership to the City of Woodland for the past 19 years.

Councilmember Jilek moved to approve Resolution No. 02-09; recognizing the service of outgoing Mayor Stark. Councilmember Carlson seconded the motion. Motion carried 5-0.

Mayor Doak stated the outgoing Councilmember Mark Evenstad was not able to attend tonight's meeting, however, the Council extends it's gratitude to Mr. Evenstad for his service to the City. *Councilmember Newberry moved to approve Resolution No. 03-09 recognizing the service of outgoing Councilmember Mark Evenstad to the City. Councilmember Jilek seconded the motion. Motion carried 5-0.*

B. Appeal of Landscape Permit – 18150 Breezy Point Road

Mayor Doak noted that a Vegetation Alteration Permit was granted to Mr. and Mrs. Bowe, 18150 Breezy Point Road on December 16, 2008. Mr. Steve Hornig, 2830 Breezy Heights Road, filed an appeal of the Permit on December 23, 2008. On January 9, 2009 Mr. Hornig contacted the City and requested the appeal of the Vegetation Alteration Permit be postponed until the next Council meeting scheduled for February 9, 2009 because he was not able to be in attendance at the January Council meeting.

Mayor Doak asked City Attorney Jamnik to clarify the appeal process.

City Attorney Jamnik stated that in the Council packet was a series of documents that comprise the record for the issuance of a landscape permit for the Bowes at 18150 Breezy Point Road. The application for a Vegetation Alteration Permit, dated December 16, 2008 was reviewed by staff and a permit was issued. Following issuance of the permit the City received notice from Mr. Hornig, the adjacent neighbor, that he was appealing the issuance of the permit. The summary of the basis for their appeal is in the materials the Zoning Administrator Karpas prepared for the Council. The challenge of appeal is based on the impact to the property value of the Hornigs, application of the ordinance and violation of their due process rights. Under the City's ordinance the appeal is processed through City Council and the ordinance provides that the appeal is to be heard at the next Council meeting. Under stated law the City has 60 days from the date of the permit application to resolve the review and act on the permit. If the Council does not act by February 16, 2009 the permit will be deemed automatically approved by application of State law. Consequently the City scheduled a meeting consistent with the ordinance to have the appeal hearing this evening. On Friday, [January 9, 2009] the Hornigs contacted the City staff and indicated that they would not be available for the hearing. The staff contacted the Bowes on Friday indicating, for their convenience, we could take any testimony, written documentation or answer questions that they may have this evening, but that the City would have the Hornigs appear before Council on February 9 and action would be taken at that meeting or shortly thereafter to meet the statutory deadline. Without the Hornigs present it is difficult to elaborate on the basis of their appeal. The record will show that staff applied the ordinance provisions, conducted site inspections and the Hornigs were consulted during that process and the process did not start with the application in December. City Attorney Jamnik noted that the process has been going on for several months and Mr. Hornig was consulted several times during that time frame. The City does need to provide an opportunity for the Hornigs to provide additional testimony or documentation so the City is recommending that the decision be delayed until February 9, 2009. The Council will allow the Bowes an opportunity to speak tonight and again on February 9, 2009, along with anyone else who would like to provide information to the Council.

The City Ordinance and Statutes do not provide a mini-trial or format. Customarily cities will process appeals much like any other hearing would be conducted. Generally the appellant will speak first and then there can be questions and answers. The appeal is a presentation of information and at the conclusion of which the Council will deliberate and act, either to uphold staff issuance of the permit, to reverse the staff issuance of the permit or to modify the issuance of the permit with additional conditions. There would be a recommendation to the Council at that point.

City Attorney suggested that Council open the floor for any comments or questions.

Mayor Doak opened the floor to the public for comments or questions.

Mr. Bowe addressed the Council and noted that they are creating a green screen with Techny arborvitae to create privacy on both sides. Mr. Bowe stated that some trees were trimmed which allowed the Hornig property a view to the lake, which they feel enhances their property values. Mr. Hornig preferred Pyramidal arborvitae on a portion of the property line and that change was made in the plan for the permit.

Jeff Feulner, landscape architect with Keenan and Sveiven, stated that the plan would include Pyramidal arborvitae to be planted between property line and retaining wall. The Pyramidal trees will sit entirely on the Bowe's property. Techny arborvitae will be planted along the top of the retaining wall and continue towards the lake. Currently there are several old plant materials growing along the property line which include honey suckle, buckthorn, and old arborvitae that have not been maintained. These plantings will be replaced to provide better screening and to enhance the property.

Mayor Doak asked for clarification as to whether the Techny will be planted on top of the retaining wall or between the wall and the property line.

Mr. Feulner stated that the Pyramidal arborvitae will be planted between the retaining wall and the property line and Techny arborvitae will be planted past the driveway on top of the retaining wall.

Mayor Doak asked what the ultimate height of the Techny arborvitae would be.

Mr. Feulner stated that the Techny will be 12-15 feet tall and some will be on top of the retaining wall. From the Hornig's driveway the mature tree heights will be 19 feet. [Please check these numbers]

Mayor Doak noted that he understood that additional Techny arborvitae will be added along the hillside near the lake.

Mr. Feulner noted that buckthorn will be removed on the hillside and the hedge line will extend to the top of the bluff. Naturally occurring plants will be retained to prevent erosion on the hill. There will be selective pruning of the overgrown honeysuckle and the buckthorn in the area and hard maples will be retained.

City Attorney Jamnik noted that Council should review the vegetation alteration ordinance criteria, listed in a, b and c of the ordinance. This is what is considered by the staff in determining whether to issue a permit or to seek modification by the permit applicant. The record has the information that was considered and the findings and determination for the issuance of the permit. City Attorney Jamnik stated that he was not clear to what extent additional information will be provided regarding due process violations, but the Council will have to wait until the February 9 Council meeting for that discussion. City Attorney Jamnik noted that the Council must review the ordinance provisions and standards because what will be asked at the conclusion of the hearing is to evaluate the facts that have been introduced and make a determination whether the ordinance conditions have been met. They will also consider whether the procedures the City Staff have employed have been fair in accordance with specified procedures. At the conclusion of discussion the Council will make a decision.

City Attorney Jamnik stated that the procedures will continue until the February 9 Council meeting. Council will not have much time from that date to take action, given the 60 day rule without an extension.

Councilmember Jilek asked what the plant life of arborvitae trees is.

Mr. Fuelner responded that it can be indefinite with some maintenance and upkeep.

Mr. Bowe noted that they want to go on record that they are excited to live in Woodland and want to maintain the integrity of the wooded areas and the grounds. Mr. Bowe stated that other neighbors have been very receptive to the plantings. Mr. Bowe reiterated that they have done everything in accordance with the ordinances and building codes.

Mrs. Mary Louise Bowe asked if they can address the concerns of the Hornigs at the February 9 meeting and if they will have an opportunity to speak and ask question.

City Attorney Jamnik stated that this potentially a contentious appeal and does not want a lot of ex-parte communication between persons without both side being involved and all conversations recorded and documented. Attorney Jamnik stated that any conversations, questions and answers he had with the Bowes today were via email and copies have been provided in the packet and for the public. Attorney Jamnik stated that any communication should be fact finding and urged the Council not to engage in any exchange of evidence or discussions of a substantive nature. If the Councilmembers make a site visit they should check with the Zoning Administrator to arrange a visit.

City Attorney Jamnik stated that although the appeal is a Council proceeding rather than a judicial proceeding, the Council should act more like judges than councilmembers in this situation and limit having any contact with the parties through the conclusion of the process.

Mrs. Bowe asked if the conversations and negotiations and everything regarding this process are documented and their correspondence and that of their builders and landscapers is also is kept in the file and on record.

Zoning Administrator Karpas stated that all correspondence is kept in the property file.

City Attorney Jamnik noted that the documents the Council received are also in the public packet and if there are any documents they feel are missing to let the City know, otherwise the documents that have been distributed are sufficient to indicate the long history this application has had. City Attorney Jamnik stated that it is only the vegetation alteration permit that is at issue.

Meeting issue continued until the February 9 meeting.

C. Storm Water Management Plan – Dave Poggi

City Engineer Dave Poggi was present to provide an overview of the Surface Water Management Plan (SWMP). Mr. Poggi is a specialist in hydrology and prepared a plan to be included with Woodland's Comprehensive Plan to meet state statutes and the watershed district criteria. Mr. Poggi stated that a detailed land and water inventory is included in the plan.

The Metropolitan Council has reviewed the SWMP. The Minnehaha Creek Watershed District has not provided feedback to-date.

Mayor Doak asked for clarification on several areas of the plan, one, in regard to the tree maps and areas specified as forest (Figure 5), noting that Woodland is more wooded than the maps represent. Mayor Doak questioned the phosphorous plan and expressed concern as to the capacity that the City has to execute the plan. Mayor Doak also asked for clarification of the credit system stated in the SWMP.

Mr. Poggi responded that the tree maps are standardized maps used for these types of plans. Mr. Poggi also explained that a credit system works only if the City charges residents for a stormwater fee, in which case the City could offer a credit to homeowners based on measures they take to improve the stormwater.

Mayor Doak noted that the plan was well done and he appreciates the work.

Mr. Poggi reported that they will address the questions raised and bring the plan back for continued review.

D. Resolution No. 04-09; Annual Appointments and Assignments.

Mayor Doak noted that he spoke with each Councilmember regarding the annual appointments and responsibilities. The Mayor Pro Tem has always been appointed based on seniority on the Council. Mayor Doak noted that Councilmember Newberry has ten years of Council experience and on the basis of that seniority will be designated Mayor Pro Tem.

Councilmember Jilek moved to approve Resolution No. 04-09; Annual Appointments and Assignments, with the addition of Councilmember Tom Newberry named as Mayor Pro Tem. Councilmember Carlson seconded the motion. Motion carried 5-0.

E. Review of Fee Schedule – Ordinance Section 305

Council reviewed the fee schedule delineated in the City Ordinances. City Clerk Souers noted that staff compared zoning application filing fees with those of surrounding communities and also reviewed the cost to process zoning applications for the City. Staff recommends that zoning fees be increased to better cover costs associated with the review and processing of zoning applications.

Mayor Doak directed staff to prepare an ordinance amendment to the fee schedule for review at the February Council meeting.

OLD BUSINESS

A. Review Final Draft of Comprehensive Plan

Council reviewed the final draft of the Comprehensive Plan. City Clerk Souers stated that the City Council held a public hearing to consider amendments the Comprehensive Plan in December of 2007. The Plan was then submitted to the Metropolitan Council for their review. The Metropolitan Council responded with recommended corrections and amendments to certain sections of the Plan. The staff made corrections and added language as recommended by the Metropolitan Council. The draft presented to the Council is the final version of the Plan with the recommended corrections and amendments highlighted in the text and noted in the attached memo. Most notable is the correction of the housing growth forecast of 20 new sewer households by 2020. Given the available land and zoning restrictions, along with the unavailability of municipal sewer and water service, the projected growth of 20 new households is not possible in the City of Woodland. The staff contacted the Metropolitan Council regarding their forecast. The Metropolitan Council suggested that the City amend the forecast by motion of the Council.

Councilmember Newberry moved to approve the final draft of the Comprehensive Plan and to correct the [Metropolitan Council] forecast to reflect a projected household growth of 5 unsewered and 0 sewer households by 2020. Councilmember Carlson seconded the motion. Motion carried 4-0. Councilmember Dowds was not present for the vote.

Staff will submit the Comprehensive Plan to the Metropolitan Council along with the SWMP once final approval is given to the SWMP.

MAYOR'S REPORT

A. Conference for Elected Officials

Mayor Doak reported that the League of Minnesota Cities is hosting a conference for newly elected officials in February and he will attend the conference.

B. New Police Vehicle

Mayor Doak reported the Police Department purchased a new vehicle. Mayor Doak stated that he is pleased with the lettering on the side of the vehicle representing both Deephaven and Woodland.

C. Snow Plowing

Mayor Doak introduced Woodland's snow plow contractor Tim Lovett, owner of Cornerstone.

Mr. Lovett reported that the cost of salt has increased significantly and with heavy usage, quantities have been limited this season. He stated that he has changed the salt/sand mix with several of his contracts to stretch out the supply of salt, but that he will keep the City's mix at 50/50. Mr. Lovett

noted it is possible that Woodland will need 30-40 more ton of salt this season. Mr. Lovett stated that he will hold the salt price down through the season but cautioned that there may be an increase in salt costs next season. Mr. Lovett stated that if the temperature warm up in March he will reduce the salt ratio to conserve supplies.

Police Chief Johnson stated that Cornerstone has done a very good job keeping the roads clean.

Mr. Lovett stated that if the salt shortage becomes a problem or if prices increase further he will contact the Council to address the supply and cost issues.

Councilmember Jilek thanked Mr. Lovett for the snow plowing work this season.

Mr. Lovett asked the Council for permission to use a bobcat to move snow out of Maplewood area. Council agreed that Cornerstone haul snow out as necessary.

D. Board of Review Training

Mayor Doak reported that the State Department of Revenue will conduct a Board of Review training this spring and encouraged Councilmembers to attend. Staff will keep Council informed on the training date.

COUNCIL REPORTS

Finance – No report.

Councilmember Carlson reported that she will speak to Woodland's Metropolitan Council representative about attending a future Council meeting.

Roads and signs – No report

Deer Management and Website

Councilmember Jilek reported that no additional deer have been removed from the City. NARS may remove the traps early.

Police Report

Chief Johnson reported that the former veteran police officer Mark Westgard was rehired and started back with the force full-time.

Ordinances

No report.

TREASURER'S REPORT

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

ACCOUNTS PAYABLE

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

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ADJOURNMENT

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

ATTEST:

Shelley J. Souers, City Clerk

James S. Doak, Mayor