

WOODLAND
CITY COUNCIL MINUTES
MONDAY, NOVEMBER 9, 2009
7:00PM

CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mayor James Doak; Councilmembers, Tom Newberry, Mike Jilek and Sliv Carlson

Absent: Councilmember Troon Dowds and Chief of Police Cory Johnson

Staff: Zoning Administrator Gus Karpas, City Attorney Joel Jamnik and City Clerk Shelley Souers.

Guests: Mr. Robert McFarlin, Mr. Steve Hornig, Mrs. Mary Louis Bowe, Ms. Carolina Bowe, Mr. and Mrs. Richard and Suzanne Henry.

CONSENT AGENDA

A) Minutes October 12, 2009; Regular Council Meeting

Councilmember Jilek moved and Councilmember Carlson seconded the motion to approve the consent agenda; item A. Motion carried 4-0.

NEW BUSINESS

A) Robert McFarlin, District 3 Metropolitan Council representative

Councilmember Carlson introduced District 3 Metropolitan Council Representative Mr. Robert McFarlin who is serving a two year term on the Metropolitan Council.

Mr. McFarlin stated that he has resided in Minnetonka for 23 years, was a former member of the Minnetonka Park Board and had served in various positions with the Minnesota Department of Transportation.

Mr. McFarlin reported that he was a strong advocate of the Highway 494 interchange and expansion of Highway 212. He also worked on the development of the Metro Transit Northstar commuter rail line which will begin service from Big Lake to Minneapolis on November 18.

In answer to Mayor Doak's question regarding traffic reduction along Highways 94 and 10, Mr. McFarlin responded that the Northstar line may not eliminate congestion or cause major reductions along these corridors; however, the service provides mobile options for commuting and will increase economic development opportunities. The Minneapolis Target field station links riders to the Hiawatha rail line with access to the V.A. Hospital, the airport and the Mall of America.

McFarlin noted that the primary goal of the rail line is to make direct connections to high volume job centers. The transit is a subsidized service and would not pay for itself through the fare box. The rates are set to attract the maximum ridership. The starting fare from Big Lake will be \$7.00, each direction, and will increase to \$8.00 after one year.

Council thanked Mr. McFarlin for his work on the Metropolitan Council and attendance to the Council meeting.

PUBLIC COMMENTS

Mr. Henry & Mrs. Richard Henry, 17960 Shavers Lane, attended the Council meeting to thank the Councilmembers for their commitment to serving the City.

OLD BUSINESS

A) Parking Ordinance Proposal – Steve Hornig, 2830 Breezy Heights Road

Mr. Hornig requested that the Council consider creating ordinance language that prohibits parking of vehicles within a certain distance from adjacent principal structure. Mr. Hornig stated that he never anticipated that the neighboring driveway would be used as a parking area and would like the City's help by creating restriction to prohibit parking in close proximity to principal dwellings. Mr. Hornig distributed two pictures of vehicles parked on the neighboring driveway to his property.

Mayor Doak stated that parking issues fall under the nuisance ordinance and believes this particular issue is specific to Mr. Hornig's property. The City has never had a complaint of this nature. Mayor Doak asked if the Hornigs had spoke with the neighbors regarding the location of the parked vehicles and asked the neighbors to not park vehicles there.

Mr. Hornig stated that he does not speak with the neighbors.

Mayor Doak stated that he believes the matter is a private nuisance between adjacent property owners. The City Council's task is to deal in general nuisances that impact multiple owners in the City.

Mr. Hornig suggested the two acre lot areas warrant a greater setback from lot lines for parking RVs and boats. Property owners parking vehicles in close proximity to the lot lines or adjacent structures would comprise a nuisance. These matters transcend issues of privacy and are not unique to one property. The whole community would be benefitted if parking were restricted within a certain distance from the neighboring houses or property lines.

Councilmember Newberry stated that this matter appears to be an isolated issue in the City.

Mayor Doak noted that Mr. Hornig is requesting a nuisance ordinance be created to address a parking issue.

Mayor Doak noted that the current ordinance requires driveways be setback five feet from side property lines. A separate nuisance ordinance would be required to prohibit parking vehicles, recreation or other, within a certain distance from adjacent principal structures.

Mr. Hornig noted that the ordinance examples, provided by staff, relate to driveway setbacks and suggested that staff research examples of parking restriction relating to RV units, trailers and boats from property lines.

Councilmember Jilek suggested that the current language be upheld without change.

Mayor Doak agreed that a car parked on a neighboring property that is in close proximity to the adjacent house could be a nuisance, however, a public nuisance affects the public and a private nuisance affects only one or a few. Mayor Doak stated that he was not sure if the parking issue is widespread and believes it is unique to the Hornig's property due to the location of the Hornig's house to the property line.

Mr. Hornig requested that staff survey more ordinances with respect to setbacks for the storage of boats, recreational vehicles and other similar vehicles.

Mayor Doak suggested the appropriate action would be to speak with the neighbor and ask them to park in other areas of their property, instead of requesting the City Council to use policy to speak to the neighbor.

Mayor Doak stated that the parking discussion will be continued to the December meeting.

B) Review of as built survey language

Mayor Doak introduced language that would require as built surveys for new construction and land alteration projects. Surveys would be required upon completion of foundations, grading alterations and for the completed building prior to issuance of occupancy certificate.

Councilmember Newberry asked at what point the foundation is considered completed.

Zoning Administrator Karpas stated the foundation is complete at the time of the final foundation inspection and prior to the commencement of framing.

Councilmember Newberry suggested that recently adopted language clarifying measurements from the OHWL be added to the survey requirements.

Councilmember Carlson asked how the City would determine the final height of a structure prior to its completion.

Zoning Administrator stated that the City could require confirmation of both the lowest floor and the first floor elevations, which should determine the final finished height.

Mayor Doak suggested the amount of escrow fee, denoted in the draft language, may not be adequate given the value of typical construction projects and property.

Attorney Jamnik noted that depending on the character of the permits, an escrow of \$1,500 should be close to the cost of an as built survey. Staff can check on the typical cost of as built survey. Attorney Jamnik noted that a \$1,500 escrow should be more than sufficient for accessory structures. A large project would require a greater escrow.

Mayor Doak asked the City Attorney the course of action in the event a final as built survey identified a problem after a certificate of occupancy had been issued.

Attorney Jamnik stated that most problems do not require a tear-down and are not sufficient to move people out of the dwelling. It can be difficult to pull a certificate of occupancy and can cause a hardship, if through no fault of the owners, an issue was detected. Attorney Jamnik stated that situations can occur, however, could not recall pulling a certificate of occupancy for encroachment or dimensional change because contractors can typically correct the structure for compliance.

Zoning Administrator Karpas stated that a temporary certificate of occupancy can be issued pending zoning compliance of the final as built.

Council agreed that there needs to be some basis for establishing an escrow amount and directed staff to get costs for typical as built surveys from several surveyors.

Attorney Jamnik suggested the City not depart from ordinance adoption procedures and continue to publish zoning hearings in the paper and post to the website. Mailing a notice of ordinance amendments to all residents may be confusing and sets an expectation for the same procedure with every proposed ordinance amendment. Attorney Jamnik suggested staff draft the ordinance language for continued discussion in December and schedule a public hearing in January. No action needs to be taken on the first reading in January.

Mr. Hornig, 2830 Breezy Heights Road, stated that he supports the foundation survey and suggested the City hire its own surveyor to conduct as built surveys to eliminate any bias. Additional costs could be added to the building permit fees, paid by the applicant. Mr. Hornig expressed concern with the possibility of flaws in as built surveys obtained by owners. Whereas, if the City contracts the as built survey it is viewed with a sense of impartiality and can be relied on, giving protection to all parties involved. Mr. Hornig reiterated that the City is moving in the right direction but questioned who should conduct final surveys.

Mayor Doak confirmed that Mr. Hornig's suggestion is that the City conduct all as built surveys and charge the owner for the cost of the as built surveys.

Mr. Hornig stated that having the City conduct the as built surveys gives neighbors assurance that the construction is accurate and the measurements are fair and unbiased.

Mayor Doak stated that the City would have to conduct all the surveys for all projects.

Councilmember Jilek stated that he understands the concerns, however, believes that professional surveyors have their reputation and integrity on the line to provide accurate data. Jilek did not believe it was a function of the City to be conducting surveys.

C) Review of Sign Ordinances

Council reviewed language amendments to Chapter 11 of the City Code relating to signs. The amendments include new language to regulate yard sale signs, clarification of the permitted total face surface of sale or rental signs and language to delineate the permitted number of directional signs pertaining to real estate open houses.

Council agreed that no signs be permitted along the lake side of any property and agreed to allow placement of signs within ten feet of the paved roadway.

Council will review the draft amendments (first reading) at the December 14 Council Meeting.

MAYORS' REPORT

County Road 101 Improvements - Mayor Doak reported that the County held a public forum to discuss the improvements proposed to County Road 101. Mayor Doak stated that his major concern is the Breezy Point Road access and the safety of pedestrian traffic along County Road 101. Minnetonka and Wayzata will bury overhead utility lines along the 101 corridor. Mayor Doak stated that Woodland will monitor any potential costs to the City that may be required as part of the future improvements.

Councilmember Carlson noted that several residents along the 101 corridor expressed concern with the water quality of Shavers Lake and the need to improve the drainage into Shavers Lake.

The County staff agreed and stated that water quality was one of the priorities relating to the corridor improvements.

Diseased Tree Inspections - A tree inspection policy will be developed in the coming months.

Open House for Dr. Dennis Peterson, Minnetonka's School District Superintendent -

Council will hold an open house forum to recognize Dr. Peterson. Dr. Peterson has been invited to provide an overview of the District's offerings and accomplishments and explain the value of a successful school district to communities. An invitation will be mailed to all residents regarding the open house.

COUNCIL REPORTS

Public Safety & Deer Management

Councilmember Jilek reported that a hearing will be held to reconsider reclassification of a dog classified as dangerous six months ago.

Finance & Intergovernmental Relations

Councilmember Carlson reported that she attended the county's budget meeting, noting that little else can be cut from the County's budget for 2010.

Ordinances

Regarding earlier as built survey discussions, Attorney Jamnik noted that costs related to as built surveys would be less expensive if completed by the original surveyor. A newly contracted surveyor would be starting from scratch with the entire site, grade and structures which would add to the cost of the survey.

TREASURER'S REPORT

Councilmember Jilek 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 Carlson seconded the motion. Motion carried 4-0.

ADJOURNMENT

Council adjourned by consent at 9:10PM. The next regular Council meeting will be held on Monday, December 14th. Motion carried 4-0.

ATTEST:

Shelley J. Souers, City Clerk

James S. Doak, Mayor