

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL OF THE CITY OF NORTH BRANCH IN THE COUNTY OF CHISAGO AND IN THE STATE OF MINNESOTA

REGULAR SESSION

March 24, 2014

CALL TO ORDER: The North Branch City Council met in regular session and Mayor Lindquist called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL: Councilmembers present were Kathy Blomquist, Theresa Furman, Ronald Lindquist, Joyce Borchardt, and Trent Jensen. Staff members present were City Administrator Konrad, Planner Roberts, Engineer Hankee, Engineer Messner, Public Works Director Williams and the City Attorney Helmers.

CONSENT AGENDA:

- Claims
- ~~Minutes – February 24, 2014 Regular Session~~
- ~~Minutes – March 6, 2014 Joint Training Session~~

Items B and C were removed for discussion.

Motion by Furman, seconded by Borchardt to approve Consent Agenda Item A. All voted AYE. Motion carried.

4B Minutes – February 24, 2014

Motion by Jensen, seconded by Furman, to approve Minutes of February 24, 2014. Members voted: Ayes – 3, Nays – 0, Abstain - 2 (Blomquist/Lindquist). Motion carried.

4C Minutes – March 6, 2014 Joint Training Session

Motion by Jensen, seconded by Borchardt to approve Minutes of March 6, 2014 Joint Training Session. Members voted: Ayes – 4, Nays – 0, Abstain – 1 (Furman). Motion carried.

PUBLIC HEARINGS:

5A 410th Street Project

The public hearing was called to order at 7:07 p.m. Justin Messner from WSB provided a project overview of the 410th Street paving project. The project anticipates paving of 410th Street from CR 30 to 1,000 feet past the intersection of Hemingway Avenue. Additional considerations for the Council to discuss would be paving an 8 foot shoulder on the south side of street from CR 30 to Roger Johnson Park and paving of a 4 foot shoulder from the park to Walker Hill development. Furman expressed concern

about parking along the roadway if it is not signed for no parking. Lindquist said that the first assessment property is missing last name. Blomquist is in favor of the four foot paved shoulders to provide safety for walking. Furman said that she does not think that the property on Hemingway should be assessed. Hankee indicated that the property is able to be divided and has applies policy but Council can change the assessment. Konrad indicated there will be another public hearing on assessments if this project moves forward. This meeting is to determine whether to move forward to the next step.

Konrad noted that Donna Slipka called to say she was opposed to the amount of the assessment because her driveway access is on Hemingway.

Mathew Munson of 40852 Greystone asked where the estimates came from. Hankee indicated they were estimates based on past projects.

Jason Aaron 40911 Guthrie Avenue said he and his neighbor are in support of the project. He believes that the parking 8 foot at Roger Johnson is needed to provide safety for those walking in the area.

John Pelton of 86448 410th Street asked about the assessment of \$6,000 plus and how residents are supposed to pay for that. Messner indicated that they can be paid in full in November of the year or can be paid over 15 years through property taxes. There are also property tax deferrals for military, seniors and disabled, or agricultural.

Mr. Pelton asked if there is a guarantee that the State will pay their portion of this project. Messner indicated that there is a balance in the State Aid fund and every year more money comes in.

Ellen Johnson 6942 410th Street said that she is not in favor of this because they chose to live there because of the country road. She has heard from the Councilmembers about anticipated increased speed and that concerns her. She has enjoyed being able to walk and ride her bike on that road and she feels that will change and she is sorry to see it go. Ms. Johnson asked if there is a cap on this cost. Hankee indicated that the assessment would not be over \$6,500. Hankee explained that the cost benefit analysis meant the proposed assessment went down to \$1,800 for those that are not directly on 410th. Ms. Johnson said that she appreciates the maintenance done on the road to keep it nice.

Scott Bauman 40928 Greystone Avenue said he and his wife support the project. He then said that it is important to have the paved walking area for folks to be able to safely walk or run along the road.

Tim Grahams 40855 Gutherie Avenue said he and his wife support the paving project. He then said that the road is hard on his vehicles and the speed can be addressed after it is paved. He then said that he is wondering if the DNR can help out paving a trail from 30 to Gutherie. WSB indicated that the DNR only funds regional trails. Mr. Grahams said he would be okay with being assessed a little more to accommodate those that cannot pay. They need the road paved and there is a benefit to the entire neighborhood.

Joe Scaramel 7170 407th Street said he lives south of 410th and when the development went in it was in the five year plan for paving so it has been a long time coming to pave the area. Mr. Scaramel said he is concerned with maintenance but said he believes that the paved shoulder is needed for safety.

Jessie Arsvold 3638 410th said they did not mind the dirt road when they bought the property but the dust has become a major issue so the paving will be a great benefit to them and they support the project.

Laurie Pinsonneault 40957 Greystone said she is for the project. She then said she is concerned with the heavy truck traffic that can destroy the road if it is not controlled or if the road is not built to handle it.

John VonLange of 6530 Elm Street said that back in 1998 when the City did the Cedar Street improvement it was the first time he heard about benefitting properties. He then said he has a problem with whining about living at the end of a dirt road. He further said that there is farmland out there and they are not benefitting a darn thing. The people who are benefitting are the people with the lowest assessment based on policies. He thinks this is about fairness. The people moved out there they should pay more for paving and the farmers should not be smacked with a huge assessment because some folks who moved to the end of a dirt road don't like dust.

Emil Dahlberg of Cassleberry Drive said that he is wondering what has taken so long to get this road paved as 100 vehicles per day is the threshold for pavement and this road is way over that. Mr. Dahlberg brought up that there has been some discussion of rerouting traffic to 410th around downtown to accommodate truck traffic for the proposed new business in the business park.

Ken Tessler of 40874 Gutherie Avenue said that the neighbors have been trying to get 410th paved for a long time. He then said that his grandkids were not allowed to play outside because of the dust so he says it is time to get the road paved. He then said he is willing to pitch in to get this paved.

Resident asked for an answer on Mr. Dahlberg's question. Lindquist said there is no application at this time. If the business comes in then options would be discussed. Konrad indicated that the EDA is in discussions with a company that is considering coming to North Branch. Staff has considered other options for traffic but 410th is not an option because it does not go all the way over to Keystone.

The Public hearing was closed at 7:47 p.m.

Jensen would like to move forward with the project.

Motion by Jensen, seconded by Borchardt, to adopt Resolution 017-03-24-14, "A RESOLUTION RECEIVING THE UPDATED FEASIBILITY STUDY FOR STREET IMPROVEMENTS AT 410TH STREET FROM THE INTERSECTION WITH FOREST BOULEVARD (CSAH 30) TO THE INTERSECTION WITH HEMINGWAY AVENUE."

Blomquist asked about the paving of the shoulders and an area by Roger Johnson Park. She then said she would like to have that done as part of the project.

All voted AYE. Motion carried.

Motion by Jensen, seconded by Blomquist, to approve Resolution 016-03-24-14, "A RESOLUTION ORDERING THE PREPARATION OF PLANS AND SPECIFICATIONS FOR STREET IMPROVEMENTS AT 410TH STREET FROM THE INTERSECTION WITH FOREST BOULEVARD (CSAH 30) TO THE INTERSECTION WITH HEMINGWAY AVENUE." To include alternates for an 8 foot shoulder between CSAH 30 Roger Johnson Park on the south side and 4 foot shoulder from Roger Johnson Park to Walker Hill."

Furman said she would be willing to look at it but will have other questions in the future.

All voted AYE. Motion carried.

COMMITTEE/COMMISSIONS:

6A PLANNING COMMISSION

A1 Andersen Windows Variance

Planner Roberts provided an overview of the proposed Andersen Windows variance application. They are proposing an expansion of their manufacturing facility and are requesting a height variance for their storage silos.

Staff recommends approval as did the Planning Commission.

Dan Heinrich representing Andersen Windows explained the proposed uses for the three silos on their site.

Furman asked which variance requirements can be met with this application. Roberts explained that the strict application of the height limit makes things very difficult operationally.

Furman said she would like to approve but she needs to understand. Mr. Heinrich said that the purpose of the silo height is to create mass flow and a shorter bulkier silo allows for separation of particles and that creates an issue operationally and the quality of the product.

Furman would like to make sure one of the findings is the impact to the products they make as a consideration. Furman asked for information from the Fire Department that says they have no concern with this development. Roberts indicated he requested the information but did not get a comment back.

Lindquist said that at the Planning Commission meeting a neighbor said he wished he would have spoken but he hears a lot of noise from the pneumatics all the time and he is wondering if something can be done about the noise.

Mr. Heinrich indicated that wood flour is unloaded hydraulically. The PVC will also be done with a pneumatic blower. The noise may be pulse cleaning. They are aware of the noise ordinances and they will remain within City requirements.

Borchardt said that there are some large pine trees and she is suggesting plantings for noise abatement. Mr. Heinrich indicated that they would take that under consideration.

Motion by Jensen, seconded by Furman, to approve Resolution 014-03-24-14, "A RESOLUTION APPROVING A BUILDING HEIGHT VARIANCE FOR THE EXPANSION OF ANDERSEN WINDOWS MANUFACTURING FACILITY AT 39811 GOLDEN AVENUE." All voted AYE. Motion carried.

A2 Ordinance Amendment – Industrial Zoning Regulations
Planner Roberts outlined the proposed changes to the Industrial Zoning District.

Furman indicated she has questions with meat slaughtering.

Jensen asked if there was discussion with building height and requiring that as a conditional use permit.

Lindquist said that 45 is an ordinary building he feels the 75 feet is not very high.

Furman wants to remove meat processing and slaughterhouses because she doesn't want that. She is not in favor of this but supports everything else.

Jensen asked what is wrong with a slaughterhouse. He then said he has no concern as long as it is under conditional use permit. Roberts indicated that the slaughtering can only be as an accessory use.

Blomquist would like to remove the slaughtering. She then asked where this would fit in to be a meat market with slaughtering which would be commercial.

Lindquist would like to leave the opportunity for business to come if they want to. Blomquist why does this have to be added to the ordinance.

Roberts indicated that one of the Planning Commission members thought it would be a good addition to the Code.

Blomquist is not in favor of slaughtering. Blomquist said she thought she heard no height restrictions at the Planning Commission level. Roberts indicated that he suggested a 75 foot height limit as a compromise.

Motion by Jensen, seconded by Borchardt, to adopt Ordinance 208-14, "AN ORDINANCE AMENDING INDUSTRIAL ARTICLE V, DISTRICTS AND DISTRICT REGULATIONS, DIVISIONS 15-17, SECTION 66-625 THROUGH 66-675 (INDUSTRIAL ZONING DISTRICTS)."

Furman said she is voting no because of the slaughterhouses. Blomquist said she is voting no because of the slaughterhouses and the height of the buildings but she appreciates the work the Planning Commission did.

After discussion members voted: Ayes – 3, Nays – 2 (Furman/Blomquist). Motion carried.

Motion by Jensen, seconded by Borchardt, to adopt Ordinance 208-14S, "A SUMMARY ORDINANCE AMENDING INDUSTRIAL ARTICLE V, DISTRICTS AND DISTRICT REGULATIONS, DIVISIONS 15-17, SECTION 66-625 THROUGH 66-675

(INDUSTRIAL ZONING DISTRICTS).” All voted AYE. Motion carried.

Blomquist asked if the Planning Commission is going to look at the height of houses in the zoning code. Council consensus was that it wasn't needed at this time.

A3 Cartway Petition

Planner Roberts explained that the City received a petition from the Nancy Nordal Strom Living Trust to create access to their parcel. State law allows petition for a cartway if their property is landlocked with no other means of access. The cartway becomes a legal private means of access to a property that crosses another person's property very similar to an easement. What is different is that the City becomes part of the approval process with a cartway application. The property adjoins Evergreen but the primary building spot is away from Evergreen so to gain access to the eastern portion of their property they are petitioning for access out to 412th Street. No details have been decided as of yet. The first step is for Council to set a public hearing to consider the cartway request. There should be an escrow established to cover City costs.

Furman asked the City Attorney if the cost of giving money to the other property owner be covered. This would be a taking to her and she wonders who sets that amount. Attorney Helmers indicated that is one of the amounts that the City sets as an estimate. The person would have to put up the money up front and the hearing is the discussion and establishment of the location of the cartway, etc.

Furman if they do not like the amount the petitioner could take the other person to court to argue the amount. Attorney Helmers said that is possible.

Furman asked if there could be a yearly fee to be paid to the person who has to provide access over their property.

Motion by Furman, seconded by Jensen, to set a public hearing for June 9, 2014 for the Cartway Petition. All voted AYE. Motion carried.

6B	ECONOMIC DEVELOPMENT AUTHORITY	NONE
6C	PARK COMMISSION	NONE
6D	WATER AND LIGHT COMMISSION	

D1 Site Lease – Genesis Wireless

Konrad asked that this item be tabled because this came in at the last minute and some changes are necessary to the agreement. Konrad stated if this service does not work out after the month trial the monthly figure for being on the water tower be worked out.

Motion by Jensen, seconded by Furman to table until Water & Light gets the document amended. All voted AYE. Motion carried.

D2 Minutes

INFO

STAFF REPORTS:

7A ENGINEERING/PUBLIC WORKS

A1 Parking Forest Boulevard

Konrad indicated that now that the Pharmacy and gift store is no longer downtown there is a consideration of no parking in front of that business. The County would be in favor and would install the no parking signs but the City would need to do the striping.

Borchardt indicated that several people brought this up to her and it seems now is the time to provide for no parking to allow for safer truck traffic movements in the area.

Joe Skelton at 6344 Main Street and he almost was not here tonight but a customer brought this up with him today. No one told him that this was on the Agenda and that seems rather underhanded. Mr. Skelton asked why this is coming up now. There has never been an accident so why now is this a safety concern? Mr. Skelton indicated that the parking lot across the street there is no way to get there during winter due to how the snow is plowed. There is an orthodontist that is interested in buying the building from him and he will need parking.

Lindquist asked if removal of the parking spot would jeopardize the sale. Mr. Skelton said that it could but he does not know for sure. Mr. Skelton said that he gave information of the owner of Nelson's for possible joint parking.

Bob Streater said he was concerned about why Mr. Skelton wasn't notified. Konrad indicated it was an oversight.

Mr. Streater said that doing something for the benefit of the whole does not mean that the individual person that this affects should be overlooked.

Borchardt said she thought she followed protocol and she is sorry there was not notification.

John VonLange 6530 Elm Street said that years ago they wanted to take parking away. There has always been a problem with that intersection. Putting the stop line in place was a step to improve turning capability on that corner. He is thinking that the stop line should be extended all the way through. Mr. VonLange said that taking away parking will not enhance safety it may even create a sense of being able to take the corner faster than they should and hitting the building. He then said the police should enforce no parking. This could also affect the furniture store.

Blomquist said when she went to the drug store she parked in Nelson's parking lot and took the sidewalk. She does not want to take parking away. She would like the next owner to ask for designated parking from Nelson's to direct foot traffic up the sidewalk.

Jensen said he can see a real cost to make this a no parking zone for this business owner so he would like to see more than just anecdotal evidence that this is a safety concern. He wants to leave the parking alone.

Lindquist said that the northeast corner there is no parking to the east so going north they would be equal. If a lot of trucks start heading north that could be a problem.

Konrad this can be monitored and addressed in the future if it becomes an issue. Lindquist agreed but thinks there should be some compensation for it.

Mr. Dahlberg asked why the City doesn't work something out with the new buyer and get those spots designated for the other businesses for off street parking.

Furman asked about a clear cut between parking lot and sidewalk and whether that could be done to assist with moving pedestrian traffic across the street. Williams indicated they will take a look at it for next winter.

A2 Water & Light Legislation

Blomquist said she searched Minnesota Statutes and looked into which cities looked into increasing Commissions. She then listed them. Blomquist said that she found one from Melrose going up to seven members and required non-residents and more than one City Council member. Blomquist said that Melrose has the ability to go up to 7 but they only have three. Blomquist said she would like to go with up to 5 and that is it.

Jensen said up to 5 or 7 members is fine with him. His only concern is he would like to see the members be residents. If he could design the perfect commission there would be five and there would be someone from Council, two residents at large and two members that are businesspersons but also residents.

Bob Egan of 2nd Avenue said he read Bob Barrett's bill but what scares him about being non-resident the folks do not own a piece of property and don't pay taxes here. He would like to have everyone be on the water service too.

Jensen clarified he meant user not just resident.

Mr. Egan said he is an employee but is on the service. He then said a non-resident is not invested enough.

Amy Oehlers said she went out to lunch in town and it was mentioned to her that the Council proposed legislation to increase Public Utilities Commission from three to five members and she is curious about that. She decided to look into it and found that in February this request was made and when you read the bill there is information that is not what was asked for. Ms. Oehlers indicated that she is concerned that this bill was not reflective of the direction given in an official meeting. Somewhere along the line there was direction outside of an official meeting or the legislators took it upon themselves to change it. Representative Barrett has put in writing that he directed them to include the other things. This was drafted in December but the official action was not until February 10 so something has gone awry and that is concerning. Ms. Oehlers said that she thinks remaining with three members would be the best thing for the City. The reason is it will prevent any behind the scenes discussions going on behind the scenes because two folks discussing violates the open meeting law. Increasing to five will change the balance of the voting with two council members so she recommends one councilmembers. Ms. Oehlers said that residency needs to be a must to serve on that commission because that ensures that they are invested in decisions that they are made. Ms. Oehlers said that direction was given to the legislators to carry a bill so either someone on the Council is giving direction behind the scenes or the legislators are doing things on their own and that is unethical and possibly illegal.

Bob Streater said that general accusations are inappropriate so he would like to see some facts and lay it out. The open ended accusations are inappropriate. If three is the perfect size for every board then which Councilmembers should resign? He then said

that everyone should be courteous and respectful. Having residents seems to be the proper way to go but one business could be on the board because one vote does not make a bad decision.

Mr. Dahlberg said he is not in favor of this legislation proposed but wants to get back to accountability and the mechanics of the whole thing. He would like to have an open meeting or a public hearing and have the direction developed before sending off the letter from the Council requesting the legislative change. Mr. Dahlberg would like to keep the communications open and above board.

Kirsten Kennedy of 378th Avenue said that there is a problem here and that is transparency and the problem is silencing citizens from participating in the political process. She knows of no other city that has moved public comment to the end of the meeting after votes are taken. Ms. Kennedy said that Councilmember Borchardt tried hard to sell the water utility and now there is this drive to change the Commission. She then asked the Council to do the business of the citizens of North Branch and move the public comment period back to the front of the meeting.

Bob Streater said he has lived in this town for 51 years and has seen a lot of councils come and go. There is not bullying like there has been in the past. He feels this Council has been transparent. Mr. Streater said there seems to be an agenda to label people and he is tired of that and said it is time to work together to get the job done but to point fingers about things not being open is not fair and totally inappropriate.

Ms. Oehlers said that Streater said she did not do her research and does not have facts. She does have facts and will provide them to staff for distribution.

Jensen suggested this is emotional and Council should move on with business.

Joe Scaramel asked if there is a problem where it needs to go up from three members. He then asked if increasing the Commission to more members change the response for emergencies. He also asked if there is a current problem that changing the Commission membership would resolve.

Borchardt indicated that quite often the meeting date is changed because one member is not available. That is a concern. If you want to go to a Water & Light meeting you have to get buzzed to go through a door to get to the meeting. Perhaps more open and

more opportunity would be available to watch and attend the meetings if they move over to City Hall and they are televised.

Blomquist said she was on the Water & Light Commission for six years and they knew a month in advance people's schedule and that was put in the minutes. There were also meetings where two met and moved forward.

Furman said that the meeting has been postponed only once this year. When she asked why she was told that they wanted the entire commission there so the meeting was postponed one week. She then asked if the City supported this bill as is whether the City can make the Ordinance and vary it to an amount because she would like to not have someone on there that has a relative within Water & Light. Konrad said that if that is a situation then they should abstain from voting.

Konrad indicated she contacted the legislators and received response that the language can still be made to the bill. That being said no changes are in effect until the local ordinance is amended. The language of the bill is up to seven members but the City can choose any number up to seven.

Jensen would like the legislation to say 5 and not 7.

Motion by Jensen, seconded by Blomquist, to direct that the language be changed to up to five members, and remove language on residency and two council members. All voted AYE. Motion carried.

Jensen said that the legal training class had discussion about doing business with a relative if you are on the council or Water & Light Commission. He would like clarification on the rules regarding nepotism with regard to voting to use or contract with family members or good friends and should family be working at the Water & Light if a parent or other family member is on the Commission.

Jensen asked if there is a nepotism policy. Konrad said the personnel policy does have some language about directly supervising family members. Jensen asked if the Council can direct the Commission to have a nepotism policy or pass an Ordinance to require it. Attorney Helmers indicated he would research the matter and get back to the Council

Furman said she was contacted by a resident who goes away for part of the winter and uses no water but he gets a bill of \$51.89 and it says no water usage. Furman then

said that there is a minimum charge for use of water to pay for infrastructure and she is wondering if there is something that can be done for the people who use no water during the winter. Konrad noted that even though the person is not here the City still has cost of maintaining and operating the system. Blomquist and Lindquist indicated that this issue has been discussed in the past.

7B	ADMINISTRATION	NONE
7C	BUILDING	
7D	FINANCE	
	D1 Financial Report	INFO
7E	LEGAL	NONE

NOTICES AND COMMUNICATIONS: **NONE**

PUBLIC COMMENT:

Mic Dahlberg of Cassleberry Drive said that it is unusual to have public comment this late. He then said he has asked Council to move the public comment up to where it was before in the meeting.

John VonLange of Elm Street said that he was deprived his opportunity to comment prior to a vote. He then said that there is only one entity that has taxing authority and that is the EDA and the Council. He further said that expanding this to more members will have ramifications and this is a way of taxation without representation. Mr. VonLange said that there is a fixed cost of operation so that is why there is a minimum charge for water whether you need it or not. Mr. VonLange said that going to a five person board or not is up to the Council.

Blomquist said that she is curious about moving public comment to the end. She then said that she called Rush City and they have public comment at 7:00 p.m. She further said she looked into a number of cities in the area that all have public comment at the beginning.

Motion by Blomquist to move public comment back to the beginning of the meeting to be in conformity with all City Councils in the area.

Jensen said that he is relatively new but during the first few months' public comment was abused and there was grandstanding and politics being pushed and opinions, etc. being laid out in public. Jensen then said he would like clear rules and timelines if public comment is moved to the beginning of the meeting.

Blomquist said she can't find any city where the public comment is at the end. There was a motion based on the fact that the Mayor said there is a city with public comment at the end and that does not exist.

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The motion died for lack of a second.

Furman said this is a lot more transparent and open than it has been in the past.

UNFINISHED BUSINESS: **NONE**

NEW BUSINESS: **NONE**

MAYOR AND COUNCIL:

12A Upcoming Agendas

Konrad noted that April 17, 2014 there is time scheduled with the County Water Department to discuss the Water Atlas. The Planning Commission will be invited to attend. Blomquist suggested inviting Water & Light. Staff agreed.

Motion by Jensen, seconded by Furman to adjourn. All voted AYE. Motion carried.

ADJOURNED: at 9:46 p.m.

Respectfully submitted,

Bridgitte Konrad, City Administrator

jrl/TOSS