

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

April 12, 2016

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

PLEDGE OF ALLEGIANCE:

Boy Scout Troop 411 led the Council in the Pledge of Allegiance.

ROLL CALL: Councilmembers present were Kathy Blomquist, Theresa Furman, Kirsten Hagen-Kennedy, Joyce Borchardt, and Robert Canada. Staff members present were City Administrator Konrad, Liquor Store Manager Dahlberg, Public Works Director Williams, Community Development Director Vita and City Attorney Helmers.

PUBLIC COMMENT:

Peter Schaps appeared before Council and noted that City Councils should follow laws that are adopted and approved by the State. Mr. Schaps continued to comment regarding the difference between discretion is allowed by elected officials and when it is not.

Lorraine Moeller appeared before Council and said she is present to discuss Furman's letter or memo regarding the vacant EDA seat. Ms. Moeller asked if the information was fact checked. She then reviewed the state statute information she had researched. Ms. Moeller indicated there had been a motion to compel the Mayor to appoint Mr. Schaaps to the EDA but the City Attorney indicated that the Council cannot do so because the Mayor makes the appointment with the approval of the City Council.

Cindy Erickson appeared before Council and asked about the sewer refund for the Oakwood Trailer Park owned by Councilmember Borchardt. Ms. Erickson indicated that the agreement referenced has not been produced by either the City or the Borchardts. The Borchardts have paid a flat rate of 1,750 gallons per month and the others average 4,200 per trailer per month so that means that, for years, Oakwood Park has paid just over 40% of what the other parks are paying. That is over a 60% discount. They have chosen not to fully meter their park yet they are asking for a refund. When everyone else's rates increased dramatically, theirs stayed the same. Her first question asked how it is not a conflict of interest for a member that is part of setting rates to allow herself to be given a special rate at an almost 60% discount and then to ask for a refund on top of that. Her second question is after the park is fully metered and it is found as a

fact how much less they have been paying, how far back can the public utility go to recover that underpaid amount. They have been underpaying to the tune of over \$6,000 per year. Go ahead and give them the \$200 refund now because it gives the city grounds to go back after them for services used but not paid for many years.

CONSENT AGENDA:

- Claims
- LELS MOUS – Language change due to change back to step pay system
- Minutes – March 17, 2016 Work Session Revised
- Minutes – February 23, 2016 Regular Session Revised
- Resolution No. 038-04-12-16 – 2016 Micro Seal Bid Award
- Authorization to Advertise – PT Summer Help
- Resolution No. 036-04-12-16– Sports Page – Special Event Permit
- Resolution No. 035-04-12-16 – American Legion- Midsummer Gambling, Temporary Liquor & Street Dance Permits Gambling Dates Revised
- Authorization to Advertise – Administrative Assistant
- Ordinance No. 240-16 - Amendment – Sidewalk Maintenance

Motion by Furman, seconded by Canada to approve the Consent Agenda as presented. All voted AYE. Motion carried.

PUBLIC HEARINGS:

6A EDA Enabling Resolution Amendment

Mayor Hagen-Kennedy opened the public hearing. Konrad explained the purpose of the hearing was to consider amending the EDA enabling resolution.

Peter Schaaps said he would like to encourage the Council to follow state statute.

Mayor Hagen-Kennedy closed the public hearing.

The City Attorney explained the issue between the enabling resolution and the City's Code. The City Attorney indicated that there is no real statutory authority for one-year terms and said he would not recommend that.

i. Amending EDA Enabling Resolution/City Code

Motion by Furman, seconded by Canada, to adopt Ordinance No. 241-16, "AN ORDINANCE AMENDING THE NORTH BRANCH CITY CODE, CHAPTER 2, ADMINISTRATION; ARTICLE V. BOARDS COMMITTEES AND COMMISSIONS; DIVISION 2 ECONOMIC DEVELOPMENT AUTHORITY BY AMENDING LANGUAGE REGARDING TERMS OF COUNCIL REPRESENTATIVES." All voted AYE. Motion carried.

COMMITTEE/COMMISSIONS:

7A PLANNING COMMISSION

i. Meeting Update

Furman provided a meeting update.

ii. Meeting Minutes

iii. Nelson Conditional Use Permit

Community Development Director Vita provided an overview of the proposed Nelson CUP to allow for utilities in their accessory structure. The Planning Commission voted to recommend approval.

Motion by Borchardt, seconded by Canada to approve Resolution No. 034-04-12-16, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR MR. AND MRS. NELSON TO INSTALL UTILITIES IN THEIR DETACHED ACCESSORY STRUCTURE." All voted AYE. Motion carried.

iv. Family Pathways Conditional Use Permit

Community Development Director Vita provided an overview of the proposed Family Pathways CUP for outdoor storage.

Canada asked about the trailers used for outdoor storage. The applicant explained the trailer situation noting the trailers are there longer than 24 hours but do rotate in and out.

Motion by Furman, seconded by Borchardt to approve Resolution No. 033-+04-12-16, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR FAMILY PATHWAYS FOR OUTDOOR STORAGE." All voted AYE. Motion carried.

v. Ordinance & Summary Ordinance – Chicken, Duck, Turkey Amendment

Community Development Director Vita explained the proposed ordinance amendment.

Motion by Blomquist, seconded by Furman, to approve Ordinance No. 239-16, "AN ORDINANCE AMENDING THE NORTH BRANCH ZONING CODE, BY MODIFYING ADDING LANGUAGE TO THE ORDINANCE REGULATING CHICKENS, TURKEYS AND DUCKS" All voted AYE. Motion carried.

Motion by Furman, seconded by Canada, to authorize summary publication of Ordinance No. 239-16S. All voted AYE. Motion carried.

vi. Sunrise Shores Sketch Plan

Community Development Director Vita provided an overview of the sketch plan for Sunrise Shores.

Vita pointed out the proposed modifications to the plan proposed by the Planning Commission.

Hagen-Kennedy asked about buildable soil. The City Attorney provided an explanation of the meaning of buildable soil.

Hagen-Kennedy said that she is concerned that the staff recommendation was ignored in some instances and she would like to take time to review and consider the staff and Planning Commission recommendations. She then asked whether it would be prudent to table this to allow time for review. Hagen-Kennedy indicated that the recommendation of staff and the Planning Commission seem to be a distance apart.

Konrad indicated there are a lot of differences between the staff and Planning Commission recommendation but, ultimately, the City Council gets to decide.

Furman said she understands the Comprehensive Plan is seven years old and the economy was a lot different than it is today and, for her, she is in favor of the sketch plan but she thinks there are conditions that were recommended to be stricken that she would like to keep or modify. Furman then outlined her concerns with the conditions.

The applicant Larry Beach explained they have changed the road entry to the development for safety reasons. He then said he would be willing to put in the turn lane or bypass because it is hard to turn there.

Community Development Director Vita indicated that the City will need to require an environmental assessment when the threshold for that requirement is met.

Mr. Beach said he did not want to spend thousands to put the preliminary plat together if there are concerns with the sketch plan.

Blomquist asked if the plat meets the shoreline management ordinance. Community Development Director Vita indicated that as of right now it does not but she would anticipate that he would bring the sketch plan to the standard before expending costs on the preliminary plat. Blomquist said that at the Planning Commission meeting there was a comment made about lot lines and she would like that statement looked into. Blomquist said that there will be mandatory setbacks from rivers coming out this summer, as Governor Dayton is very concerned about water quality. The applicant indicated that the setback is 50 feet. He then said that the lots will not include the river. There will be a large lot dedicated to open space as an outlot along the river.

Hagen-Kennedy indicated that there is not a vote of a 4/5th to amend the Comprehensive Plan. Konrad indicated that if Council feels that a Comprehensive Plan Amendment is needed for this project then the applicant would need to apply for that.

Mr. Beach indicated that zoning supersedes the Comprehensive Plan because the City is outside the seven County metro area.

Furman asked if the Council can elect not to require a Comprehensive Plan amendment. The City Attorney indicated it is the Council's option to determine whether or not a Comprehensive Plan amendment is required. The City Attorney indicated he has not looked into whether or not that can be done but noted that past practice has been that a Comprehensive Plan amendment has been required. Furman said that according to what she believes are findings of fact she thinks a zoning ordinance is a zoning ordinance and that is what she goes by. Furman said she has issues with some of the conditions or other things, which she can relay in the future if this goes through. Furman asked about sidewalks and trails for number five. Community Development Director Vita explained the proposal for trails versus sidewalks.

Hagen-Kennedy indicated she would vote on the staff recommendation in this matter. Furman asked for an opinion of the City Attorney. Konrad asked for clarification on what the Council is asking an opinion on. Konrad asked if the

Motion by Furman, seconded by Canada, to adopt Resolution No. 037-04-12-16, "A RESOLUTION DIRECTING THE DEVELOPER OF SUNRISE SHORES TO RE-SUBMIT THE SKETCH PLAN OF PROPERTY LOCATED SOUTH OF 392ND AND WEST OF FLINK" as amended removing conditions 3, 9, 10, 11 and 12 and

requesting a legal opinion on the comprehensive plan issues .
Members voted: Ayes – 3, Nays – 2 (Blomquist/Hagen-Kennedy).
Motion carried.

7B ECONOMIC DEVELOPMENT AUTHORITY

- i. Meeting Update

7C PARK COMMISSION

- i. Meeting Update

7D WATER AND LIGHT COMMISSION

- i. Minutes
- ii. Meeting Update

STAFF REPORTS:

8a ENGINEERING/PUBLIC WORKS **NONE**

8b ADMINISTRATION

- i. **May 24 Council Meeting Date/Time Change**

Konrad noted that there is a school board election on May 24 so the Council cannot meet between 6:00 p.m. and 8:00 p.m.

Motion by Hagen-Kennedy, seconded by Canada, to reschedule the meeting to May 23, 2016 at 7:00 p.m. All voted AYE. Motion carried.

8c BUILDING

- i. Activity Report

8d FINANCE

- i. **Sewer Refund – Oakwood Park & Mfg. Home Disconnect Policy**

Konrad noted that there is a request for refund from Oakwood Park and Manufactured Home Park. Konrad noted that this brought to light the need for a policy for when a home is removed what the procedure is for discontinuing sewer charges for that unit. Public Works indicated that this is a unique situation and the need for a policy to determine what to do if a home is moved out and no longer using sewer. Furman asked how far back the recommendation is. Williams indicated that, for this request, Staff is going back to when that trailer was removed. Borchardt indicated that Water & Light kept billing because the charge was still happening even though there was not a building there. Hagen-Kennedy said that she would prefer that Borchardt step down and address the issue like a resident not as an elected member

considering a refund for herself. Hagen-Kennedy indicated that she agrees there needs to be a policy but everyone knows that the Park is not fully metered so it is difficult to say what is actually being used. Konrad noted that what is being billed to the park now is an average. Hagen-Kennedy asked if all the water has been paid for that has been billed, she would need those facts. Konrad said that staff is recommending a credit toward their bill for the amount for the sewer only for the months that the unit was not there. Staff is recommending a credit toward sanitary sewer bill. Williams clarified that the fee was set by Water & Light for what they are paying.

Motion by Canada, seconded by Furman, to approve the policy as noted by staff.

Furman asked about whether the policy has anything that states this would go back to December for this? Konrad indicated this is a general policy guideline.

Blomquist would like to have a copy of the checks to verify this has been paid. Furman said this sounds personal and right now, this is the policy.

Hagen-Kennedy noted that water is public information.

After discussion, Ayes – 4, Nays – 1 (Blomquist). Motion carried.

Borchardt indicated she would be abstaining on the credit request for the sanitary sewer bill.

Blomquist would like to have this policy given to the other two trailer courts so they are aware.

Motion by Furman, seconded by Canada, to approve the refund to Oakwood Trailer Court.

Konrad noted the unit has been disconnected since December and an April bill would have gone out so she would like the Council to consider that the refund is from December billing through current billing.

The motion and second agreed.

Blomquist would not want this to be based on averaging because, as we heard, the estimates and she would like proof that the amounts have been paid because she does not want this to be a

conflict. Hagen-Kennedy said that was said numerous times. She then said she is not sure what kind of water is running into and out of that park because there are no good numbers. She thinks it is difficult and would be in factual to say we know it is shut off because the park is not metered.

Furman said that the building is gone so how do you not know it's shut off.

Konrad said that the request is regarding the amount billed to them after it was disconnected from the system. Konrad noted that whether that amount is paid in full should not be part of the request. The question is whether or not the Council wishes to grant a refund.

After discussion, Ayes – 2, Nays – 2 (Hagen-Kennedy/Blomquist). Motion failed. The meeting was recessed at this point.

ii. Financial Report

8e LEGAL NONE

8f PUBLIC SAFETY NONE

8g OTHER

i. Liquor Store Year-End Report

The Liquor Store Manager Dahlberg provided an overview of the 2015 year-end report. She reported that gross sales increase 4.12% in 2015. In 2015 \$140,000 was transferred to the General Fund to help lessen the tax burden.

NOTICES AND COMMUNICATIONS:

a. Recycling Event & Compost Loading – April 30

b. Job Fair – April 26

UNFINISHED BUSINESS: **NONE**

NEW BUSINESS: **NONE**

MAYOR AND COUNCIL:

a. Upcoming Agendas INFO

b. Blomquist – Rushline Update

Blomquist indicated she was not able to attend due to illness.

c. Hagen-Kennedy – Volunteer Parliamentarian

Hagen-Kennedy said she would like to support youth leadership and she has seen other Councils have a volunteer parliamentarian and they would be a non-voting member and it would help the Council to not have to look through Roberts Rules books. She would like Council to think about it and then see if there is interest in doing this. Furman asked what criteria or training would be required because she thinks it would be difficult for someone that does not have Roberts Rules training. Hagen-Kennedy said it would be a student parliamentarian and sit with the staff and maybe answer questions. First, it is just to explore for interest. She would like to support and ignite youth leadership. Furman said she is not against it but she honestly is concerned about requirements and someone knowing Roberts Rules and how this would work.

d. Furman – Vacant EDA Seat

Furman outlined the situation and circumstances surrounding the vacant EDA seat. Furman would like to know why the only person that applied for the EDA position was not appointed and said she would like to know when the Mayor is going to make an appointment.

The City Attorney indicated that the proposal to have the Council make the appointment his opinion is that this would not be a legally valid appointment because the Mayor appoints with approval of Council and this is the Council appointing and approving.

Furman said that right now, there are six members on a seven-member board and it is difficult to have even numbers as you end in tie votes.

Furman asked the Mayor to appoint a member and follow procedure.

Hagen-Kennedy said that looking back historically, Lorraine Moeller was her recommendation and there was a change to City Code and retroactively removed Lorraine Moeller and historically what she has seen is a very great campaign to force her to appoint Mr. Schaaps. Hagen-Kennedy asked if this is a question about Ms. Moeller or what questions is she being forced to answer. Hagen-Kennedy said she has made a recommendation for Lorraine Moeller and the Council voted it down and the only candidate the Council will allow is Mr. Schaaps. Hagen-Kennedy said that in this instance the Council cannot choose precedence because Furman has in the past said precedence does not matter. In this instance, the mayor has state statute to appoint and she has given a name that is competent and served before so she is experienced. Furman wants this done to appoint the one resident who applied and met the deadline.

Motion by Furman, seconded by Borchardt, to approve Resolution No. 039-04-12-16, "A RESOLUTION APPROVAL OF PETER J. SCHAPS TO THE VACANT SEAT OF THE CITY OF NORTH BRANCH, ECONOMIC DEVELOPMENT AUTHORITY (EDA)."

The City Attorney indicated that the motion would not be legally binding because the Statute requires appointment by the Mayor with approval by the Council. Furman withdrew her motion.

Motion by Furman,, to have a public hearing to abolish the EDA. Motion died for lack of a second.

Hagen-Kennedy said that not getting your own way does not mean you have a fit and vote to abolish the EDA. Furman suggested the Mayor is having her own fit by not appointing someone.

Blomquist said there is no written procedure that says how the application process will be handled. She would suggest this go to a work session and come up with a policy on how to appoint people to commissions. There is nothing in writing that says the City has to have an application process.

Borchardt said that there was notice placed in the paper that the Council was taking applications so it was advertised.

Konrad indicated that there is no legally binding requirement to make appointments based on applications received.

Blomquist asked where the \$30,000 amount comes in. Konrad explained that if the EDA is abolished there will be consequences of doing that. The EDA owns property and all of those properties have to be transferred to the City and bonds would need to be sold in the City's name and a bond reissuance fee is \$30,000 to \$40,000 and those are just a couple of things that come to mind.

Furman restated her, seconded by Borchardt, to approve Resolution No. 039-04-12-16, "A RESOLUTION APPROVAL OF PETER J. SCHAPS TO THE VACANT SEAT OF THE CITY OF NORTH BRANCH, ECONOMIC DEVELOPMENT AUTHORITY (EDA)." After discussion, Ayes – 3, Nays - (Hagen-Kennedy/Blomquist). Motion carried.

The City Attorney indicated the motion is not legally binding.

Motion by Furman to call for a public hearing to abolish the EDA unless the Mayor makes a motion to appoint Mr. Schaaps to the EDA.

The motion died for lack of a second.

Borchardt said that there is a statute that says an elected official must do duties. Hagen-Kennedy said she has no dereliction of duty. She has made a recommendation and a code was changed retroactive to remove Ms. Moeller.

e. Borchardt – Request for Factual Data

Borchardt noted that January 17, 2016 meeting Blomquist indicated that there are leaks at Oakwood Park and that is not factual data. Hagen-Kennedy said that when there are disagreements the Council agreed to mediation. Hagen-Kennedy said that there are strong feelings and disagreements so she would like a recommendation from staff. Borchardt said this was a damaging statement made as a personal attack. She would like to know why that was stated that way. City Attorney indicated there is a right to ask but the Mayor is right that the next step of requiring someone to answer those questions there is nothing to require someone to answer the questions.

The City Attorney clarified that is an aspirational goal so there is no way to compel someone to answer.

Hagen-Kennedy said that an aspiration is only as good as how the Council treats each other.

Blomquist said that she filed for mediation with Anoka County Mediation Services and it is still an active mediation that has not come to the top of their list so she is waiting for them to give an answer as to when Borchardt and she can sit down together with the mediator. Borchardt said that she provided a copy of the official record and they recommended training for the Council.

f. Borchardt – Public Comment Response

Borchardt read a statement regarding her negotiation with Water & Light for her Oakwood Park. She then read the public comment made by Ms. Erickson and clarified that Oakwood Park has paid the bill through November but did not agree with certain charges and there is a disputed amount. Borchardt indicated that there is an ongoing dispute regarding charges. The information that they are in the middle of the Water & Light administrative process.

Blomquist asked what step in the appeal process and what is the next step. Borchardt the next step is to appeal to entire commission. The decision was to deny the request.

Blomquist said that since they are no longer able to estimate and feel that averaging is unfair, she is wondering what the plan or recommendation of Borchardt is. Borchardt said that they have submitted a plan to Water & Light

and they did not like the plan because it treated the Manufactured Home owners as the same as townhome owners.

g. Furman – Planning Commission Training

Furman indicated that she feels the Planning Commission needs additional training on the scope of their duties and that it be mandatory for continuing as a Planning Commissioner and if they do not attend, it would be a resignation of their seat.

Hagen-Kennedy said that after the meeting she feels the staff needs to be apologized to and the behavior toward the staff last night was abhorrent and she is embarrassed and she wants to apologize to the Staff that attended the meeting and she would ask this training to be in person.

Furman said that she spoke to the Planner after the meeting and texted Konrad and spoke to her so there is ongoing conversations about this. Furman said that she would like the training to be in person and they need to know what their scope is.

Furman would like to require this training to be mandatory and if they do not remove them or consider it a resignation. The City Attorney indicated that they can absolutely make it mandatory but he is not certain you can call it a resignation of the seat but can tell them that failure to attend will result in removal.

Furman said she spoke to the Chair this morning so that he is informed of what is going on and listed her concerns.

Konrad indicated this is on the list of to dos and Attorney Squires is willing to do the training. This might be something the Council wants to consider later on as well.

Motion by Furman, seconded by Hagen-Kennedy, to require mandatory, in-person training on land use, the roles and scope of duties and decorum for Planning Commissioners and, if they do not attend, the Council may consider the Administrative Removal Process.

Blomquist suggested a test.

Hagen-Kennedy said that the behavior from last night's meeting can never be repeated.

Canada would like to start with the Planning Commission but other Commissions also.

Council agreed that the current issue is with the Planning Commission.

After discussion, All voted AYE. Motion carried.

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

ADJOURNED: at 10:13 p.m.

Respectfully submitted,

Bridgitte Konrad, City Administrator
jrl/TOSS