



MINUTES
CITY COUNCIL MEETING
January 15, 2008

CALL TO ORDER

The meeting was called to order at 6:36 pm.

Present: Mayor: Randy Gilbert; Council: Sam Rettinger, Sharon Henderson, Ben Goodwin, Ken Hammerschmidt

Staff Present: City Administrator: Steve Stahmer; Finance Director: Terry Post; Public Works Director: Marv Wurzer; City Attorney: Joel Jamnik; City Engineers: Dan Boxrud, Jay Murzyn, Toby Muse; and City Clerk: Jeanette Moeller

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Gilbert invited recently retired Council member Ken Hammerschmidt to lead the Pledge of Allegiance.

RECOGNIZE KEN HAMMERSCHMIDT FOR SERVICE ON THE CITY COUNCIL

Mayor Gilbert expressed his gratitude to newly retired City Council member Ken Hammerschmidt for his service, and thanked him for his guidance and friendship. He presented a Certificate of Appreciation to Mr. Hammerschmidt and read the following statement aloud:

*"This Certificate of Appreciation is presented to **KEN HAMMERSCHMIDT** in recognition of your service as a member of the Long Lake City Council, January 2, 2001 through January 3, 2008. We thank you for your leadership, your vision, and for your devoted commitment to Long Lake's future and the community at large. Your contributions will be celebrated for years to come."*

Mayor Gilbert informed the audience that Council member Jim Benson had taken his Oath of Office during the Council's earlier work session meeting.

APPROVE AGENDA

A motion was made by Henderson, seconded by Benson, to approve the Agenda as presented.
Ayes: all.

CONSENT AGENDA

Item 4H was added to the Consent Agenda and the accompanying report was distributed as a bench handout.

The Consent Agenda consisted of:

- A. Approve Minutes of January 3, 2008 City Council Work Session
- B. Approve Minutes of January 3, 2008 City Council Meeting
- C. Approve Vendor Claims and Payroll
- D. Approve Contract with American Engineering Testing for Water System Improvement Project Soil Testing
- E. Set Board of Review Hearing Date

- F. Approve State of Minnesota Pay Equity Report
- G. Approve Resolution 2008-08 Appointing Candidates to the Position of Paid On-Call Firefighter
- H. Adopt Resolution No. 2008-09 Authorizing Signatories for the City Financial Account at Lake Community Bank

A motion was made by Benson, seconded by Goodwin, to approve the Consent Agenda as amended. Ayes: all.

OPEN CORRESPONDENCE

Kevin Krolczyk, Owner of Dalbec Roofing (Representing Harvest Moon)

Mr. Krolczyk stated that he knows there are a lot of people trying to get a grocery store in the Long Lake area. He said that if Council members had not become members of the Harvest Moon cooperative yet, as City Council members he believes they should join and help bring the grocery store to the community.

BUSINESS ITEMS

Planning Case #07-014: Three Point Development / PUD Amendment and Conditional Use Permit for a Drive-Through Lane at 2073-A W Wayzata Boulevard

Abel reported that the applicant is requesting an amendment to the approved retail building located at 2073-A West Wayzata Boulevard for the addition of a drive-through lane on the east end of the structure for Snyder's Drug Store. The Zoning Ordinance permits the use of a drive-through window within the PUD zoning district with an approved conditional use permit (CUP). However, since the applicant is proposing site changes to accommodate the drive-through, a plan amendment is also necessary.

At their meeting on December 11, 2007 the Planning Commission voted 4-1 to recommend approval of the PUD amendment and the CUP for the drive through lane. At the December 18, 2007 Council meet this request was tabled. The Council requested that the drive-through window design be modified to be more in liking with the original final building plan which was approved. The Council also had concerns with the interior layout of the building with regards to shelving displays and their visibility through the windows. The applicant provided a copy of the floor plan for Council's review and has also agreed to install black-out glass around the building to prevent seeing any shelving inside the store.

Abel noted that two revised elevation plans had been submitted for the Council's consideration. Scheme A would completely enclose the opening with glass besides the drawer opening. Scheme B illustrates infill of the bottom three or four feet of the opening with masonry to match the existing building. The top portion of the opening would be enclosed with glass. If the application is approved, Council will need to identify which design scheme would be preferred.

Dave Leonard, Snyder Drug Stores, stated he'd prefer to use black-out glass around the drive-through window for both customer privacy and aesthetic purposes. In his opinion, design scheme B would look better as it would follow through with the design of the front of the building.

A motion was made by Goodwin, seconded by Rettinger, to adopt Resolution No. 2008-03 and approve the final PUD amendment and a conditional use permit to accommodate a drive-through lane for a Pharmacy on the eastern building on the site, located at 2073-A W Wayzata Boulevard with conditions, including utilizing Design Scheme B as provided by the applicant. Ayes: all.

Planning Case #08-01: Charlie & Lisa Hirt / Two Wetland Setback Variances at 342 Wolf Pointe Trail

Abel stated that the applicant is proposing to build a 20-foot by 40-foot pool with a surrounding retaining wall in the rear yard on the east side of the home. An additional retaining wall would be constructed on the northwest corner of the property to help stabilize soil and assist in erosion control. The proposal requires a wetland setback variance from 50 feet to 39 feet for the pool and retaining wall on the east side, and a variance from 50 feet to 35 feet for the retaining wall on the northwest corner of the property. Under Section 17A Water Management of the zoning ordinance, it states that structures are required to have a 50-foot setback from a designated DNR Wetland. Abel noted that the Minnehaha Creek Watershed District requires only a 35-foot setback from wetlands, and the application for consideration would meet the MCWD requirements.

At their meeting on January 8, the Planning Commission voted 4-1 to recommend approval of the wetland setback variances. A public hearing was held and one person spoke in opposition of the request.

Charlie Hirt, 342 Wolf Pointe Trail, indicated that the variances if approved would allow construction of a pool, and add usable yard for their family to enjoy. In their design process, they had tried to respect the MCWD's guidelines; however, unfortunately Long Lake's wetland setback is more restrictive. Hirt also discussed landscaping plans for the property.

A motion was made by Benson, seconded by Henderson, to adopt Resolution No. 2008-05 and approve a wetland setback variance from 50-feet to 39-feet to construct a pool, and a wetland setback variance to construct a retaining wall from 50-feet to 35-feet at 342 Wolf Pointe Trail with conditions. Ayes: all.

Planning Case #08-02: Imaginality, Inc. / Representing Long Lake Dental for a Projecting Sign Lighting Variance at 1870 W Wayzata Boulevard

Abel reported that Long Lake Dental, represented by Imaginality Inc., is requesting a sign lighting variance to construct a projecting sign with internal lighting at 1870 West Wayzata Boulevard. The proposed sign meets the size requirements outlined in the City's sign ordinance, but does not meet the lighting requirements - internal lighting for projecting signs is prohibited. External lighting on projecting signs which are integrally designed as part of the sign and not as separate fixtures is permitted on commercial businesses within the zoning district in which Long Lake Dental is located.

At their meeting on January 8, the Planning Commission voted 5-0 to forward the variance request onto the City Council for their consideration or, to redirect the request back to the Planning Commission for further review if an ordinance amendment is desired. The Commission did not vote to recommend approval nor did they vote to recommend denial of the variance request. They did however offer their support in the architectural design of the sign and thought that it would enhance the style of the building. The Commission referred to Section 8-237. Sign adjustments where it indicates that adjustment to the height, area, or location of a sign may be approved by the City Council if certain criteria are met.

Abel stated staff recommends this request be denied due to the lack of a hardship and the fact that there is not a unique circumstance associated with the property or building. After further review with the City Attorney, Section 8-237 Sign adjustment does not refer to the allowance of sign illumination which is associated with this request. It only refers to the height, area, or location of a sign. If the Council should choose to consider this type of request, staff would recommend that the Council consider amending the sign ordinance.

Planning Commissioner Lauren Hoen commented that he had been fully prepared to interpret the sign ordinance in its truest form, but after seeing the uniqueness of the sign in question and other examples shown by the company, he and other members felt the sign had endearing and beneficial qualities towards the village concept for the downtown area. Commissioners preferred that the Council direct the Commission to revisit the sign ordinance itself in order to allow the Planning Commission to accept this type of sign design. Commissioner Hoen reflected upon changes in technology and how they could be applied to sign design. He highlighted design elements of the sign that had been appealing to the Commission.

Donny Chillstrom, 267 Charles Street, stated that as a former Planning Commissioner he felt that signage issues are like parking – it will always be an issue that must be worked with along the way.

City Attorney Jamnik clarified that the Council could deny the application, approve the variance, or may table the application for a short period of time to review and revise the sign ordinance; however the 60 day rule must be taken into consideration.

Myrna Orensten, Imaginality Inc., spoke on behalf of Long Lake Dental owner Doug McNaught. She discussed their rationale for challenging the sign ordinance. She pointed out that with externally illuminated signs, light bulbs are visible in the signage hoops or ground level lighting fixtures needed to illuminate the sign properly. She also stated that Mr. McNaught had already added elevation to the front of his building in order to accommodate distances required by the sign ordinance, and if signage hoops were to be incorporated in the design, he would have to raise the elevation even further. The sign's current design uses the maximum area possible to present an attractive design with effective illumination. In her opinion, the full length of the sign couldn't be properly illuminated externally. She presented examples of other signage in Long Lake to complement her argument, and detailed the construction of the sign as proposed.

Mayor and Council discussed their individual opinions regarding the sign's appearance; whether external lighting could be accomplished to properly illuminate the sign; what criteria might be set forth in the sign ordinance to allow these types of signs while establishing limitations; how the sign design met Council members' ideas of the village concept; whether the language in the sign ordinance was arbitrary and capricious; the history behind barring internally lit projecting signage in the downtown area; and the ramifications of applying the sign ordinance inconsistently.

Planning Commissioner Tim Hultmann stated that the lengthy discussion "was a joke". As a Commissioner, he thought the sign design was great but had been unable to recommend approval of the variance due to the sign ordinance criteria.

Jim Gulbranson, former Planning Commissioner and new Chamber of Commerce Vice President, said that the request was simply for a variance. If the Council wants to approve the sign, a hardship needs to be found. If the Council can find a hardship, he recommended approval. If the Council chooses to revisit the sign ordinance, he asked that the business community be involved and invited to work with staff in that effort.

Mayor and Council discussed what hardship might be found.

Stahmer referred the Council to the applicant's submittal which included the applicant's attempt to address the five hardship criteria for variance issuance.

Council member Rettinger suggested the application be tabled, as the language in the sign ordinance has created a problem for the property owner who is seeking to put up an architecturally significant sign.

A motion was made by Goodwin, seconded by Henderson, to adopt Resolution No. 2008-07 and deny the request for internal lighting on a projecting sign at 1870 West Wayzata Boulevard with the findings of fact listed in the attached Resolution. Ayes: Goodwin, Gilbert. Nays: Rettinger, Henderson, Benson. Motion failed.

A motion was made by Benson, seconded by Rettinger, to approve the request for internal lighting on a projecting sign at 1870 West Wayzata Boulevard, citing the hardship as stated by the applicant in their submittal. Ayes: Rettinger, Henderson, Benson. Nays: Goodwin, Gilbert. Motion failed.

(NOTE: A four-fifths majority vote is required for approval of a variance application.)

A motion was made by Goodwin, seconded by Rettinger, to table the application for internal lighting on a projecting sign at 1870 West Wayzata Boulevard until the next meeting of the City Council.

Mayor Gilbert asked what would be resolved by tabling and waiting to take action.

Council member Goodwin thought that members need to go back and determine whether any were interested in changing their vote. In the meantime, he hoped the petitioners would explore external lighting options.

Ms. Orensten invited Mayor and Council to her facility to further discuss the signage proposed and lighting standards.

Ayes: Rettinger, Goodwin, Gilbert. Nays: Henderson, Benson. Motion carried.

Tod Olson, former Mayor and resident at 292 Heather Lane, stated the sign ordinance had been an ongoing problem since his resignation from the Planning Commission in 1975. He suggested that in reviewing the ordinance, technical specifications be included.

Mayor Gilbert asked the applicant to provide more detailed technical information about the proposed sign's lighting and power.

Mayor Gilbert called a two minute recess.

2008 Street Reconstruction Project Discussion

Stahmer reported that as part of the City's Pavement Management Plan, a significant street reconstruction project is scheduled to occur every three years. The three year cycle is intended to address major City-wide maintenance needs while remaining financially feasible given the amount of debt service required to pay for the project. The last street project was conducted in 2005, resulting in a total cost of \$1.1 million with the City selling \$650,000 in bonds to finance the balance of the project.

In July of 2007 the City Council ordered a Feasibility Study to be conducted by the City Engineer. The report investigated the feasibility of reconstructing Inglewood Street south of Grand Avenue, and Nielson Avenue, to include water, sewer and storm water improvements, as necessary. The report was provided to Council on December 18, 2007.

Of the estimated \$1,283,000, approximately \$247,000 is estimated to come from special assessments with the remainder divided between the Water Fund, the Storm Water Fund and the General Fund. Preliminary estimates would indicate the need to bond for approximately \$700,000, depending upon final bids and prepaid assessment amounts which are yet to be determined.

Staff and the City Engineer held a neighborhood meeting with the affected residents on September 20, 2007. The results of that meeting were largely positive.

If the project is to move forward in 2008, it is recommended that the City Council schedule and hold a Public Improvement Hearing for the next City Council meeting. The current bidding climate is very favorable/competitive, making 2008 a relatively attractive year in which to complete a reconstruction project.

Toby Muse, Short Elliot Hendrickson, provided an overview of the proposed project and discussed the timeline for hearings, preparation of plans and specifications, bidding, and project construction.

Mayor Gilbert clarified for those in attendance that tonight's vote would not approve the project, but merely approve the feasibility study. The project may be halted at any time prior to bid award.

Ken Hammerschmidt, 2103 Neilson Avenue, asked what the average assessment would be and how many property owners would be affected. The reply was that there were 39 assessable lots that would be assessed an average of \$6,933 according to Council member Benson's calculation.

Donny Chillstrom, 267 Charles Street, stated that his neighborhood had been assessed for the recent 2005 street project despite objections raised at that time. He felt the project should go forward as planned, consistent with past policy.

Adam Holmes, 2130 Neilson Avenue, spoke in favor for the project. His property is affected negatively due to the current drainage system. The City has been out multiple times to repair the street in front of his home because it is continuously underwater.

A motion was made by Henderson, seconded by Goodwin, to accept the Feasibility Study Report for the 2008 Street Improvement Project and to order the Public Improvement Hearing for the first Council meeting in February 2008, at 6:30 pm at Long Lake City Hall. Ayes: all.

Public Discussion: Tax Increment Financing

Mayor Gilbert introduced this agenda item and stated the purpose for the discussion was to educate the public on what funds from the decertification of a Tax Increment Financing district can be used for, and to solicit public input.

Stahmer stated that the City currently has several Tax Increment Financing (TIF) districts in place. The largest district is Redevelopment TIF District 2-1 which was established to collect increment from the Southwood Shores Townhome development to be used for redevelopment efforts within the City.

District 2-1 currently has a balance of approximately \$800,000 and is set to decertify, or lapse, at the end of 2010. By the end of the district's term, the fund would grow to approximately \$1.1 million if no other projects/expenditures were to be undertaken. Any funds not spent or encumbered by that time must be paid back to the County for redistribution among the various taxing jurisdictions. If the district funds were to be remitted to Hennepin County at the end of 2010,

the City would receive its portion of the total tax increment collected, estimated at roughly 30% of the total.

Projects recently paid for using TIF District 2-1 funds include the Wayzata Boulevard signal light painting (\$9,000) and the undergrounding of the Xcel Energy power lines along Wayzata Boulevard between the American Family Insurance building and the Town Center (\$220,000). A landscaping project has been proposed for the same stretch of boulevard where the undergrounding project is taking place in order to create a more attractive gateway into downtown Long Lake. The City Council and staff have completed some preliminary work on planning this proposed project, but it has not been approved.

Stahmer provided a Powerpoint presentation outlining the concept of TIF in general; what TIF can/cannot be used for; City redevelopment goals; projects intended to facilitate redevelopment which can be legally funded by TIF District 2-1; and the critical timeline for usage of funds.

Mayor Gilbert added that the City cannot buy the property next to City Hall and sell it later using these funds. Funds cannot be "laundered", and must be encumbered by December 31, 2010. He also reflected that a good reason for spending funds on a Wayzata Boulevard landscaping project was that in the future when the City applies for federal funding to improve the existing Highway 12 corridor, the City will be able to show it has taken action towards achieving future improvements.

Council and staff provided feedback in response to the following comments and questions:

Tim Hultmann, 280 Lakeview Avenue, thanked the Council for having the meeting and hoped there would be more. During his tenure on the Council, the Council had been told in estimate that the cost to bury power lines would be \$80,000 to \$90,000. He asked why more emphasis was not being placed on the area along Virginia Avenue, and why the cost to bury power lines had increased to \$220,000.

Cindy Borgert, 570-1/2 Brown Road N, stated that beautiful landscaping could be achieved in a more cost effective manner and suggested Council members take note of a particular shrubbery installation in St Louis Park as an example. She suggested that scaling back landscaping would save funds for downtown and pedestrian friendly improvements. Ms. Borgert also noted that the most miserable site in town was the Kenny's market property and asked whether TIF funds could be used to purchase the land or bulldoze the buildings. She further asked if the TIF funds could be used to improve the Town Center or provide assistance in some manner to the Harvest Moon cooperative to bring a grocery store to Long Lake.

Donny Chillstrom, 267 Charles Street, submitted his idea that power lines in the area of Lake and Symes Streets could be buried and street lighting updated to improve the appearance of the view to the lake.

Kevin Krolczyk, owner of Dalbec Roofing at 2285 Daniels Street, stated it should be on the top of the Council's list to work with the board of Harvest Moon and see how TIF funds could be of benefit to them. A grocery store would create benefit for the City, residents and business community. He discussed Harvest Moon's current efforts in attracting members and establishing a location to open a store.

Mayor Gilbert noted that if consideration were to be given to Harvest Moon, it would need to be given to all businesses fairly.

Jim Gulbranson, 1575-F Wayzata Blvd W, complimented the Council on both holding the meeting and their current list of potential projects to be funded through TIF. He asked if there was a specific concept for improving the area along Highway 12 from the Peppercorn Grill west to Willow Drive, and whether funds could be used to improve the appearance of the creek. He commented he also liked Mr. Chillstrom's idea of making utility improvements along Lake Street down to the park.

Adam Holmes, 2130 Neilson Avenue, asked what criteria would the City use to determine how much of the remaining TIF funds would go to a project if a developer were to come forward to the City.

Lauren Hoen, 292 Wolf Pointe Trail, stated Xcel Energy had informed him that of the 11 power outages his neighborhood had experienced over the past few years, all would have been prevented if power lines had been buried. To add to ideas for projects to be funded, he suggested the addition of a pedestrian crossing on the east side of town that would allow residents on the north side of town to access the new trails on the south side, and further asked whether Billy's Lighthouse could be demolished.

Roger Adams, 1130 Underhill Circle, spoke in support of Mr. Hoen's idea of a pedestrian crossing on the east side of town, commenting that any measures to slow traffic down in that area would be appreciated. He also asked if funds could be used to reduce light pollution from the Brown Road bridge.

Tod Olson, 292 Heather Lane, recalled past expenditures that had been made using TIF funds during his service on the Council. He emphasized that funds should not be used for "anything you think you can get somebody else to do". He cited the idea of burying power lines in the area of the Kenny's market site, stating that project could be achieved by making it a condition of PUD approval. He noted he was troubled by Xcel Energy telling people they cannot deliver power because lines aren't buried, stating that was their responsibility as well. He suggested the funds be invested in ways they would pay off.

Bob Hardin, 238 Greenhill Lane, requested an update on the status of the Metropolitan Council pending grant and asked whether ravine and berm improvements could be included in that project.

Mayor Gilbert thanked everyone for attending and for their suggestions.

Before moving on, Stahmer stated he had received a phone call from John Divec, a resident in favor of undergrounding of power lines and landscaping projects because the City needs an entrance into downtown.

Public Hearing: Ordinance Adopting the Minnesota State Building Code

Mayor Gilbert stated that at its last meeting, the City Council had adopted the Minnesota State Building Code with the inclusion of Chapter 1306 dealing with sprinkler systems, including the Subpart 3 requirement applying to new construction. He suggested code be left as is until the new Fire Chief was in place to advise. His second thought was that as an existing building is redeveloped, a smart business owner will say a sprinkler system is needed.

Kevin Krolczyk, owner of Dalbec Roofing, stated he and developer Cliff Otten were concerned that adopting a more stringent rule applying to new and existing buildings could create an economic hardship for developers.

Neil Weber, 2280 Watertown Road, stated that in his opinion based on his knowledge of building code, he felt adoption of the more stringent rule was unnecessary.

Building Official Loren Kohlen, Metro West Inspection Services, listed area cities and which option they had adopted. The majority had adopted Subpart 3, as Long Lake had adopted already.

Mayor Gilbert recommended the code adopted be left as is. No objection was voiced.

2008 City Appointments

Mayor and Council members discussed various appointments and subcommittee positions, and indicated their preferences.

A motion was made by Rettinger, seconded by Henderson, to amend the 2008 Appointments Worksheet and appoint:

- Planning Commissioners Art Loosen and Lauren Hoen, and Council members Goodwin, Henderson and Benson to the Economic Development Authority for a two-year term expiring December 31, 2009;
- Council members Rettinger and Benson to the Police Advisory Committee;
- Mayor Gilbert and Council member Henderson to the Fire Advisory Committee;
- Mayor Gilbert and Council member Goodwin to the Highway 12 Turnback Committee;
- Council member Rettinger to the Lake Minnetonka Communications Commission;
- Council member Henderson as the Park Board Liaison;
- Council member Rettinger as the Planning Commission Liaison;
- Planning Commissioner Jon Crump as Chair of the Planning Commission for the year 2008;
- Planning Commissioner Art Loosen as Chair Pro-Tempore of the Planning Commission for the year 2008; and
- Planning Commissioner Tim Hultmann as Liaison to the Chamber of Commerce for the year 2008.

Ayes: all.

OTHER BUSINESS

Meeting Date Changes – Stahmer stated that the regularly scheduled February 5 and March 4, 2008 City Council meetings must be rescheduled due to Minnesota's precinct caucuses and state statute. It was the consensus of Mayor and Council members that the February 5 meeting be rescheduled to Thursday, February 7; and the March 4 meeting be rescheduled to Thursday, March 6.

Introduction of Associate – Mayor Gilbert introduced Cindy Kirchoff from Campbell Knutson Professional Association. As an associate of City Attorney Jamnik, she will be his primary

replacement if he is unable to attend a meeting. Ms. Kirchoff discussed her background in local government.

Fire Chief Candidate Interviews – Stahmer said that interviews for the position of Fire Chief will be conducted the afternoon of January 24. A packet of candidate resumes are to be sent to Mayor and Council members on Monday.

ADJOURN

Hearing no objection, Mayor Gilbert adjourned the meeting by general consent at 9:53 pm.

Respectfully submitted,

Jeanette Moeller
City Clerk