

**MINUTES OF MEETING
DELLWOOD CITY COUNCIL
JUNE 11, 2019**

The regular monthly meeting of the Council of the City of Dellwood was held at City Hall, 111 Wildwood Road, Willernie, MN on June 11, 2019.

Present: Mayor Mike McGill, Councilpersons – Scott St. Martin, Brady Ramsay and Elsbeth Howe; City Clerk Joanne Frane, City Treasurer Brian Beich, City Sewer Inspector Brian Humpal, Amanda Groh from Focus Engineering and City Attorney Richard Copeland

Also Present: Matthew Muir, a Sheriff from Washington County and Richard Galena

Absent: Councilmember Boosalis

Mayor McGill called the meeting to order at 5:30 p.m.

Mayor McGill asked if anyone was present for public comment.

Matthew Muir from the Coalition Against Bigger Trucks distributed a handout explaining his organization's opposition to legislation allowing larger trucks on Minnesota roadways. Mr. Muir explained that his organization is sponsored by the railroad industry. Their claim is that larger trucks cause greater damage to roads and bridges.

A Washington County Sheriff's Deputy gave an update on law enforcement activities in the area.

Attorney Richard Galena was present on behalf of the White Bear Lake Fireworks Committee. They are seeking a contribution from the City of Dellwood for the annual fireworks display held on July 4th. Attorney Copeland stated that in his opinion the City has authority to make a monetary contribution for such purposes under the statute granting Cities power to promote the general welfare of the community. Upon Motion by St. Martin, second by Ramsay, the Council voted unanimously to make a contribution of \$200 to the WBL Fireworks Committee, form the City's miscellaneous general expense account.

Mayor McGill asked for approval of the Agenda for this meeting. On Motion by St. Martin, second by Ramsay, the Agenda was approved as submitted with no changes or additions.

Upon Motion by McGill, second by Ramsay, the Minutes of the May 14, 2019 Council meeting were unanimously approved with the correction of a typo near the bottom of page 1, the word "look" should be "looked".

Update on Peninsula Septic Area: Brian Humpal, City Sewer Inspector, was present to give the Council an update regarding plans for redevelopment of the land owned by the City, situated at the top of the Peninsula lying between Peninsula Road and Gardner Lane. This is a parcel of 1.5 acres which was donated to the City by Robert and Jackie Gardner to be used for septic system purposes by those properties on the Peninsula which are unable to accommodate their own on-site systems. Currently three properties are utilizing the area.

Mr. Humpal stated that there are 30 homes on the Peninsula and that 15 to 20 of those could benefit from the use of the City's property. He believes that this area could be more efficiently used by reworking the land to create a shared community-type treatment area which could accommodate more users than would separate individual systems as are now in place. He noted that some potential

problem areas which may need use of the City land are located on North and South Peninsula Road from Dellwood Avenue to the entrance to the Peninsula property. The logistics are a problem because of the distance from the home to the City land which could be up to 2800 feet. The piping would have to be placed under the right of way of Peninsula Road at a considerable cost.

The Council members noted that Peninsula Road is scheduled for street improvement work in 2019. If the City decides to proceed with creating a community septic area which may include homes on North and South Peninsula Road and Peninsula Road itself, it may not be prudent to make street improvements at this time. There was much discussion on this issue and the consensus of the Council was that much additional information is needed before any final action can be taken. Mr. Humpal stated that he is in consultation with some of his colleagues in an effort to determine how the community system should be designed and which areas on the Peninsula are to be considered for the land. There does not appear to be any immediate need at this time for additional hook-ups to the City land. The property at 3 Gardner Lane is being redeveloped and the owner plans to demolish the existing home and to rebuild. 3 Gardner Lane is immediately next to the City owned property with Gardner Lane in between. Mr. Humpal believes that an approved septic system can be located on the 3 Gardner Lane property but that set-back Variances would likely be required for the new home. The present use of the City septic land is done on a first-come, first serve basis. Mayor McGill stated this was not a good idea.

Mr. Copeland said that years ago he had prepared a form of License Agreement to be signed by the users of the City land, but he is not aware that such License Agreements have been used. The License Agreement contained the terms upon which the respective users could utilize the City land and addressed maintenance and cost issues. Mr. Copeland is not aware as to whether this form of Agreement was ever approved or adopted by the City Council.

Councilperson Howe stated that the Council needs a lot of further information on this matter. Mayor McGill and others stated that a "freeze" should be imposed upon any further use of the City land until further information is received from Mr. Humpal as to the design and extent of a community type septic area on the City land. Mr. Humpal stated that it could be several months, up to a year, before all information is available to make any recommendations to the City. Other alternative measures were discussed briefly including the possibility of connection to the Mahtomedi public sewer lines. Mr. Copeland is to check into this.

The Council instructed Mr. Copeland to draft a proposed Resolution for the purpose of imposing a freeze or moratorium upon any further septic system connections to the City land to allow the City to gather the information needed to make an informed decision. The freeze should continue for a period of one year and may be continued if necessary.

Mr. Copeland stated that a formal moratorium as that term is generally understood in relation to zoning regulations is not necessary in this case. The land involved is owned by the City and the City can regulate its use, except that any use must be related to septic system purposes according to the conditions of the gift made by the Gardners. The freeze imposed upon its use is strictly within the discretion of the City and can continue for such time as the City Council may determine. Residents on the Peninsula do not have any contractual rights to the use of the land. Its use is to be governed by the City Council as determined to be in the best interests of the public health, safety and welfare. Existing License Agreements, if any, can be changed by the City.

PENINSULA ROAD / STREET IMPROVEMENTS 2018/ ENGINEER UPDATE/CHANGE ORDER NO.2:

Amanda Groh was present to update the Council on Street improvement projects. She is recommending approval of Change Order No. 2 submitted by Midstate Landscaping to extend the completion date of completing repairs to Streets in the Meadow Ridge development. Upon Motion by Ramsay, second by St. Martin, the Council resolved unanimously to approve Change Order No. 2, as submitted. (Base Course only \$246,337.20).

Amanda Groh reported that the low bidder for Street improvements to Peninsula road is Minnesota Paving and Materials. This Company has acquired Hardrives, Inc., with whom the City currently has a dispute as to the defects perceived to exist in the completed work.

Mr. Copeland distributed a handout regarding the contract bidding law. He has previously stated that the City does not have sufficient cause to deny an award of the new contract to Minnesota Paving and Materials, the bidder, simply because it may have acquired Hardrives and its staff.

Amanda Groh stated that her firm has had discussions with Minnesota Paving personnel and they have confirmed that crews and other employees of Hardrives have been dismissed and will not be involved in the Peninsula Road project. The City has until July 14th in which to either accept or reject the bids. The City may reject all bids. It is probably not possible to extend that deadline without the consent of all bidders. It is likely that the Council will not have all of the information it needs to decide whether to delay 2019 Road Improvements until the questions regarding use of the right-of-way for septic system purposes have been resolved.

Amanda stated that the condition of the roadway is such that perhaps patching in areas may be reasonable on a temporary basis in order to give the City more time to decide the septic issues. Ramsay will ask Ken Johnson to inspect the Road and give his opinion to the Council.

Mr. Copeland will check with Ehlers and Associates as to the effect of delay in construction upon the bonding process.

The Council decided to table the matter to the July Council meeting for further discussion and action.

TEMPORARY GAMBLING PERMITS: The Applications for Temporary Gambling Permits submitted by American Legion Post 272 and Jeremiah Program were reviewed. Mr. Copeland stated that both Applications are in good order. Upon Motion by St. Martin, second by Ramsay, the Application of American Legion Post 272 was unanimously approved. Upon Motion by Howe, second by Ramsay the Application submitted by Jeremiah Programs was approved unanimously. The Clerk shall endorse each Application with "no waiting period".

TEMPORARY LIQUOR LICENSE: The Application by White Bear Lake Rotary Foundation was reviewed. Mr. Copeland stated that the Application was in good order with the exception that the Applicant must provide to the City an updated Certificate of Insurance having an effective date from July 1, 2019 through June 20, 2020 and showing the City of Dellwood as an additional insured party. Also, the Applicant must confirm to the City that it has arranged for two deputy sheriffs to be present at the event for security purposes. This event is to take place at the Pine Tree Apple Orchard on September 7, 2019. Upon Motion by McGill, second by Howe, the Application for a Temporary Liquor License was approved by favorable votes of Councilpersons St. Martin and Howe, and Mayor McGill. Councilperson Ramsay abstained from voting on this matter.

CLAIMS AND RECEIPTS LIST:

The Claims and Receipts List for the month of May 2019 was reviewed and discussed. Upon motion by St. Martin, second by Ramsay, the Claims and Receipts List for May 2019 was approved unanimously as submitted.

REPORTS:

Treasurer Beich provided a handout showing the financial condition of the City. This shows a balance in the Money Market account of \$547,600. His handout also shows information regarding property tax valuations, tax capacity, maximum debt limitations, relationship of Dellwood's debt to other taxing districts, and misc. information provided by the U.S. Census Bureau.

City Sewer Inspector Brian Humpal distributed a proposal from Kloepfner Services and Designs for the design work of the septic systems area to evaluate and identify options for providing a centralized community drainfield area.

McGill reported 8 remodel permits and 3 mechanical work permits.

Copeland reported that the City updated Comprehensive Plan has been distributed to neighboring communities for review and comment. To date, no comments have been received except that RCWD has approved Dellwood's Water Management Plan which is part of the overall Comprehensive Plan. He also reported that an Application by John Ordway for filling operations at 10 Dellwood Avenue has been administratively approved. The fill does not amount to land reclamation and is for the purpose of restoring the contour of the land which was previously changed to accommodate a tennis court. RCWD has reviewed the application. The City Clerk is able to administratively issue a permit to allow filling, with conditions set forth in the Memorandum of Focus Engineering dated June 3, 2019, regarding working hours, silt fences, signage, parking and restoration of disturbed areas.

There being no further business, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Joanne Frane
Dellwood City Clerk / Administrator