

MINUTES OF MEETING - DELLWOOD CITY COUNCIL
January 9, 2024

The regular meeting of the Council of the city of Dellwood was held in person on January 9th, 2024 at the city offices, 111 Wildwood Rd., Willernie, MN. The meeting was accessible to non-council members by way of ZOOM.

Mayor McGill called the meeting to order at 5:37 PM. Council members St. Martin, Ramsay, Christopherson and Ramsay attended in person.

City staff members present in person were City clerk Joel Holstad, City Treasurer Brian Beich, City Planner Nate Sparks, and City Attorney Richard Copeland. Others attending in person were John Carr of LLTA, and LeWayne leno of 33 Dellwood Ave. James and Lori Kelly of 48 Dellwood Ave. attended remotely.

PUBLIC COMMENT: John Carr distributed material regarding a recent traffic count on the recreational trail collected by a counter located near the pond area adjacent to Mahtomedi Ave. There were no other persons present for public comment.

AGENDA: On motion by St. Martin second by Christopherson, the agenda for this meeting was approved unanimously, as submitted.

MINUTES: Boosalis moved to approve the minutes of the December, 2023, council meeting, as submitted. Ramsey seconded, and the motion was approved by a 4/5ths vote. St. Martin abstained, having not attended that meeting.

AGENDA ITEM NO, 1, 2024 FEE SCHEDULE; Nate Sparks presented the proposed fees to be charged by the city in 2024. On motion by Ramsay, second McGill, the attached fee schedule was unanimously approved and adopted. On motion by McGill second by Boosalis, the council voted unanimously to approve the publication of the summary of the Ordinance No. 2024-02, amending Fee Schedule Sections 30.11F1, 30.11F10, and 30.11F12.

AGENDA ITEM No.2: APPOINTMENTS FOR YEAR 2024: Mayor McGill presented his appointment list for 2024. On motion by McGill, second by Boosalis, The appointment list was approved unanimously. [copy attached].

AGENDA ITEM NO. 3: VARIANCE REQUEST FOR 33 APPLE ORCHARD RD: Mr. LeWayne Leno has requested variances to allow for a replacement septic system, being a type 1V non-standard system which will not meet the setback from the wetland on the lot. The Planning Commission held a public hearing on December 19th, 2023, and has recommended approval of the variances. The commissioners found that practical difficulties exist which prevent the applicant from complying with the strict requirements of the ordinance due to the unique character and contours of the lot and the presence of a wetland. The City Septic Inspector has reviewed the proposed design and location of the septic system and has found them to be reasonable, and in keeping with the purposes of the ordinance. The setback from the wetland will be 36 feet, whereas the existing set back is only 15 feet from the wetland. The septic inspector has determined that there is no reasonable alternative for the design and location of the system.

On motion by St. Martin, second by Ramsay, the council resolved unanimously to adopt the findings and recommendations of the Planning Commission and to approve the granting of variances to allow for a Type 1V septic system with a setback from the wetland of 36 feet, and to adopt Resolution No. 2024-01, copy attached hereto.

AGENDA ITEM NO. 4: EMPLOYEE'S SICK AND SAFE TIME POLICY. Mr. Holstad explained the requirement imposed upon the city to grant an employee one hour of sick and safe time off with pay for every 30 hours of work performed, subject to a cap of 80 hours accumulated credit. He presented proposed Resolution No. 2024- for the council's consideration. This policy is mandated by the state and the city has no option.. Each employee pay stub must show the accumulated hours. On motion by McGill, second Christopherson, Resolution No. 2024- was unanimously approved. [copy attached hereto].

AGENDA ITEM No. 5: WBLCD REAPPOINTMENT; Meredith Walburg has served as Dellwood's representative on the White Bear Lake Conservation District Board, and her term of service has expired. She wishes to continue in that capacity. On motion by Ramsay, second by St.Martin, Meredith Walburg was appointed to serve as Dellwood's representative on the WBLCD Board, until such time as her term expires or her replacement has been duly appointed.

AGENDA ITEM No. 6, ISSUES WITH CIC PLATS; A recent common Interest community plat affecting land in Dellwood has exposed a serious loophole in the law regarding subdivision of land. The overall statute governing subdivisions is chapter 505, which requires city approval of a subdivision plat and the city to sign off on the plat prior to it's being recorded in the county. Chapter 515B relates to creation of CIC Plats which purport to subdivide land into separate Parcels for sale. This chapter does not require approval by the city in which the land is located, and the Washington County Recorder's office has taken the position that the city shall not be notified of the filing of an application for a CIC Plat. Therefore, the city has no way of protecting its land use regulations, including minimum lot size requirements. A CIC Plat can be recorded and created legally without the city's knowledge or input, even though it may be in violation of the city ordinances. Developers and landowners consider CIC Plats to constitute legal subdivisions which override any land use regulations to the contrary. The County Recorder is not in a position to determine whether any given CIC Plat conforms to the ordinances of any given city. This issue has arisen in various cities and townships in Minnesota, but continues to be unsettled law, Mr. Copeland and Mr.. Holstad are taking steps to avoid the possibility of a CIC Plat being created in the future which does not conform to the City's land use regulations, in particular the minimum lot size.

CLAIMS AND RECEIPTS FOR DECEMBER, 2023: Upon motion duly made and seconded, the council unanimously approved the claims and receipts list for the month of December, 2023, as submitted.

REPORTS; Joel Holstad was granted authority to issue tobacco licenses to the White Bear Yacht Club, 7 Vines Winery, and Dellwood Country club, upon payment of the required fees. He will contact WBYC and Dellwood C.C. and inform them that an application needs to be filed. McGill moved to grant such authority and Boosalis seconded the motion. The council voted unanimously in favor of the motion. Boosalis reported that changes are being made to the city's contract with Rekor. There will be 5 LPR units instead of 5, to be solar powered and installed at no expense to the city. The overall contract price to the city will not change.

McGill reported two new remodeling permits and one re-roof.

There being no further business , and upon motion by Ramsay and second by McGill, this meeting was adjourned at 6:37 PM

Joel Holstad, City Clerk/Administrator

A handwritten signature in black ink, consisting of a large, stylized initial 'JH' followed by a long, sweeping horizontal line that tapers to the right.

**CITY OF DELLWOOD FEE SCHEDULE
CITY CODE SECTION 30.11**

The City Council may adopt those fees and charges that are authorized by this code. Until a fee becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. Once a fee has become effective any previous fee is no longer in effect. License fees are annual fees and permit fees are for each permit, unless specified otherwise. The following license fees and permit fees shall be paid to the City Clerk together with the application for license or permit:

- A. General Fees. For all licenses and permits not listed below: \$30

- B. Administrative Fees.
 - 1. Copies: \$0.25 per sheet (residents free within reason)
 - 2. Return Check Fee: \$30

- C. Business & License Fees.
 - 1. Garbage License (Section 50.12): \$200
 - 2. Vendor License Application Fee: \$1 per application
 - 3. Vendor License: \$200
 - 4. Liquor License (Chapter 112): \$600
 - 5. Temporary Liquor License: \$0 per permit
 - 5. Cigarette License (Chapter 114): \$40

- D. Animal Control Fees.
 - 1. Animal License (Section 91.02): \$10.00 for two years
 - 2. Animal Control Impound Fee (Section 91.07): \$90 per occurrence plus \$22 daily impound and any veterinary costs. All fees incurred by the City shall be born by the animal owner.

- E. General Permit Fees.
 - 1. Gambling Permit (Chapter 116): \$0
 - 2. Fireworks Application Permit Fee (Section 130.03): \$200
 - 3. Open Burning Permit (Section 130.09): Amount required by White Bear Lake Fire Department
 - 4. Public Dance Permit (Section 118.03): \$200

- F. Building Permits & Fees.
 - 1. Building Permits – On Valuation
 - 2. Plan Check Fee: 65% of building permit fee
 - 3. Recurring Plan Check Fee: 25% of building permit fee
 - 4. Plumbing (residential): \$100.00 & \$1.00 surcharge
 - 5. Mechanical (residential): \$100.00 & \$1.00 surcharge
 - 6. Air Conditioning Installation: \$100.00 & \$1.00 surcharge
 - 7. Air Conditioning (part of mechanical installation): \$100.00 & \$1.00 surcharge
 - 8. Gas piping (that is not part of mechanical installation): \$100.00 & \$1.00 surcharge

9. Fireplace (gas or wood): \$100.00 & \$1.00 surcharge
10. Re-roofing (residential): On Valuation & \$1.00 surcharge
11. Re-siding: On Valuation & \$1.00 surcharge
12. Window replacement (in existing opening): On Valuation & \$1.00 surcharge
13. Demolition: \$100.00 & \$1.00 surcharge
14. Other maintenance of minor projects as determined by the Building Official: \$80.00 & \$1.00 surcharge
15. Other Inspections and Fees:
 - a. Inspections outside of normal business hours: \$47.00 per hour*
 - b. Re-Inspection fees: \$47.00 per hour*
 - c. Inspections for which no fee is specifically indicated: \$47.00 per hour* (minimum charge one-half hour)
 - d. Additional plan review required by changes, additions or revisions to plans: \$47.00 per hour*
 - e. For use of outside consultants for plan checking and inspections or both: Actual costs**
 - * Or the total hourly cost to the jurisdiction, whichever is the greatest. The cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.
 - ** Actual costs including administrative and overhead costs.
16. Septic Permit: ~~\$728.00~~ 800
 Maintenance Report Fee: ~~\$20.00~~ 25.00

G. Land Use & Zoning Fees.

1. Variance, Appeal, Conditional Use Permit, Interim Use Permit, Amendment, Minor Subdivision, Preliminary Plat, Final Plat (Section 152.13), Excavation, Grading & Filling Permits (Section 152.06.G), Stormwater Management Plan (Section 53.095): \$200 base fee plus \$1000 escrow. Escrow may be reduced to \$500 by the City Clerk for minor applications in the sole judgment of the City Clerk.
2. Antenna/Tower Conditional Use Permit (Section 155.05): \$1000
3. Antenna/Tower Annual Inspection Fee: \$300
4. WECS Annual Inspection Fee (Section 155.15.1.4): \$100
5. Zoning Permit (including Pool Permit in Section 153.04): \$75
6. Septic Site Plan Review: \$200
7. Zoning and Engineering Site Plan Review: \$100
8. Right-of-Way or Public Easement Vacation: \$200 plus \$600 escrow.

H. Right-of-Way Use Fees.

1. Right-of-Way Registration Fee (Section 56.05): \$100
2. Right-of-Way Excavation Permit (Section 56.12): \$500
3. Right-of-Way Construction Escrow (Section 55.01): \$1000
4. Right-of-Way Permits (Section 56.12): \$25

I. Public Safety & Enforcement Fees.

1. False Alarm Fees (Sections 135.03 and 135.05): Alarms 3-6 \$50, 7+ \$100

2. Administrative Penalties (Section 30.16)
 - a. Building Code (Chapter 90): \$300
 - b. Sewer Ordinance (Chapter 51): \$300
 - c. Sign Ordinance (Chapter 94): \$100
 - d. Parking Regulations (Chapter 71): \$75
 - e. Road Escrow (Chapter 55): \$200
 - f. Fence (Chapter 93): \$200
 - g. Exterior Storage (Chapter 95): \$200
 - h. Peddlers (Chapter 113): \$200
 - i. Excavation/Filling (Chapter 152): \$150
 - j. Animal Licensing & Control (Chapter 91): \$150
 - k. All other offenses: \$75

EFFECTIVE: JANUARY 12, 2022 (LAST REVISION)

APPOINTMENTS FOR 2024

OFFICIAL BANK	MIDWEST ONE BANK
OFFICIAL PAPER	WHITE BEAR PRESS
CITY ATTORNEY	RICHARD W. COPELAND
ASSISTANT CITY ATTORNEY	JOEL M HOLSTAD
BUILDING, PLUMBING, HEATING INSPECTOR	JACK KRAMER
PROPERTY COMPLIANCE OFFICER	JACK KRAMER
SEPTIC INSPECTOR	BRIAN HUMPAL
DEPUTY MAYOR	SCOTT ST. MARTIN
WEED INSPECTOR	MIKE MCGILL
DEPUTY WEED INSPECTOR	SCOTT ST. MARTIN
SAFETY COMM. (POLICE, FIRE, & ANIMAL)	SCOTT ST. MARTIN
BUILDING & SEPTIC COMMISSISONER	MIKE MCGILL
ROAD COMMISSIONER	BRADY RAMSAY
SPECIAL PROJECTS COMMISSIONER	MIKE MCGILL
WBLCD REPRESENTATIVES	MEREDITH WALBURG and Mark Wisniewski
CABLE COMMISSION REP.	ROBERT NUFFORT, JOANNE FRANE-ALTERNATE
CIVIL DEFENSE DIRECTOR	GREG BOOSALIS
CLERK/ADM/ZONING ADM	JOEL HOLSTAD
CITY INSURANCE	BEARENCE MANAGEMENT GROUP - MARK LENZ
CITY ENGINEER	FOCUS ENGINEERING- CARA GEHEREN
ACCOUNTANT	FOLEY KALSEIM & CO-DUSTIN MOELLER
TREASURER	BRIAN BEICH
CITY ASSESSOR	CHASE PELOQUIN
WEBMASTER	BEN ROBY
TREE INSPECTOR	WOODCHUCK-TYLER JACOBSON
ANIMAL CONTROL OFFICER	COMPANION ANIMAL CONTROL-BRIT HARMON
ROAD MAINTENANCE (per contract)	KEJ ENTERPRISES, INC. - KEN JOHNSON
DATA PRACTICES COMPLIANCE OFFICIAL	JOEL HOLSTAD
CITY PLANNER	WSB-NATE SPARKS

LENO
33 APPLE ORCH
RD.

CITY OF DELLWOOD
WASHINGTON COUNTY, MINNESOTA

RESOLUTION 2024-01

A RESOLUTION APPROVING A VARIANCE TO ALLOW FOR THE INSTALLATION OF
A SEPTIC SYSTEM AT 33 APPLE ORCHARD ROAD

WHEREAS, Lawayne Leno (“the Applicant”) has made a request for a variance to allow for the installation of a new septic system within the setbacks to an unclassified body of water at 33 Apple Orchard Road in the City of Dellwood (“the City”); and

WHEREAS, the subject site (“the Property”) is legally described as:

Lot 9, Block 4 of Dellwood Hills Plat 1; and

WHEREAS, Sections 152.5.A.1 of the Dellwood Zoning Ordinance and 16.2 of the Washington County Septic Ordinance require a 75 foot setback to unclassified bodies of water; and

WHEREAS, the Applicant is proposing to install a system that would be about 36 feet from a wetland on the Property; and

WHEREAS, the City’s Sewer Inspector has reviewed the proposed septic system and found it to be acceptable for the Property and that there are no viable alternate locations; and

WHEREAS, the existing system is located about 15 feet from the wetland; and

WHEREAS, the Dellwood Planning Commission held a duly noticed public hearing during on December 19, 2023 and recommended approval of the request; and

WHEREAS, the Dellwood City Council reviewed the request at the January 9, 2023 meeting; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dellwood hereby approves the variance based on the following findings of fact:

1. The proposed variance is consistent with the Comprehensive Plan.
2. The proposed use of the Property is reasonable in nature.
3. There are practical difficulties present in placing a conforming septic system on the site due to topographic conditions on the Property and the presence of wetlands.
4. The Applicant’s proposal is the minimum variance necessary to alleviate the practical difficulties.

BE IT FURTHER RESOLVED that the City Council of the City of Dellwood hereby approves the variance with the conditions:

1. The septic system shall be installed within one year of this approval.
2. All comments from the City's Sewer Inspector shall be adhered to.
3. The construction shall generally follow the plan submitted for review.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF DELLWOOD THIS 9TH DAY OF JANUARY, 2024.

APPROVED

Mike McGill
Mayor of Dellwood

Attest:

Joel Holstad
City Clerk

CITY OF DELLWOOD
WASHINGTON COUNTY, MINNESOTA

RESOLUTION 2024-02

A RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF
ORDINANCE NO. 2024-01 AMENDING THE FEE SCHEDULE
SECTIONS 30.11.F and 30.11.G

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Ordinance No. 2024-01 will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED that the following summary of Ordinance No. 2024-01 is approved for publication:

CITY OF DELLWOOD
ORDINANCE NO. 2024-01
AMENDING THE FEE SCHEDULE SECTIONS 30.11.F and 30.11.G

Section 1. The Dellwood City Code is hereby amended to include the following ordinance summarized below:

The City of Dellwood amended Sections 30.11.F and 30.11.G of the City Code to regarding the fee schedule to amend fees related to building permits, septic permits, and land use application fees.

Section 2. The full ordinance will be in effect on the date of this summary publication.

Section 3. The full ordinance is available for review during regular office hours in the office of the City Clerk.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF DELLWOOD THIS 9TH DAY OF JANUARY, 2024.

APPROVED

Mike McGill
Mayor of Dellwood

Attest:

ORDINANCE 2024-01

AMENDING THE FEE SCHEDULE SECTIONS 30.11.F and 30.11.G

THE CITY OF DELLWOOD ORDAINS:

Section 1. Code Amended. That Sections 30.11.F.1, 30.11.F.10, 30.11.F.11, 30.11.F.12 are hereby amended to read as follows:

1. Building Permits: On Valuation plus .05%
10. Re-roofing (residential): On Valuation plus .05%
11. Re-siding: On Valuation plus .05%
12. Window replacement (in existing opening): On Valuation plus .05%

Section 2. That Section 30.11.F.16 is hereby amended to read as follows:

16. Septic Permit: \$800
Maintenance Report Fee: \$30

Section 3. Code Amended. That Section 30.11.G is hereby amended to read as follows:

G. Land Use & Zoning Fees.

1. Variance, Appeal, Conditional Use Permit, Interim Use Permit, Amendment, Minor Subdivision, Preliminary Plat, Final Plat (Section 152.13), Excavation, Grading & Filling Permits (Section 152.06.G), Stormwater Management Plan (Section 53.095): \$225 base fee plus \$1100 escrow. Escrow may be reduced to \$600 by the City Clerk for minor applications in the sole judgment of the City Clerk.
2. Antenna/Tower Conditional Use Permit (Section 155.05): \$1000 with a \$2000 escrow.
3. Antenna/Tower Annual Inspection Fee: \$300
4. WECS Annual Inspection Fee (Section 155.15.1.4): \$100
5. Zoning Permit (including Pool Permit in Section 153.04): \$75
6. Septic Site Plan Review: \$200
7. Zoning and Engineering Site Plan Review: \$125
8. Right-of-Way or Public Easement Vacation: \$225 plus \$800 escrow.

Section 4. Effective Date. This Ordinance shall be effective upon passage and publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DELLWOOD THIS 9th DAY OF JANUARY 2024.

APPROVED:

Mike McGill
Mayor

ATTEST:

Joel Holstad
City Clerk

(seal)

EARNED SICK AND SAFE TIME EMPLOYMENT POLICY

“Earned Sick and Safe Leave” is paid time off earned at one hour of Earned Sick and Safe for every 30 hours worked by an employee, up to a maximum of 48 hours of sick and safe leave per year. The hourly rate of Earned Sick and Safe Leave is the same hourly rate an employee earns from employment with the city. This specific leave applies to all employees (including temporary and part-time employees) performing work for at least 80 hours in a year for the city. Earned Sick and Safe time will be earned based on a calendar year.

(a) Earned Sick and Safe Leave Use

The leave may be used as it is accrued in the smallest increment of time tracked by the city’s payroll system for the following circumstances:

- an employee’s mental or physical illness, treatment or preventive care;
- the mental or physical illness, treatment or preventive care of an employee’s family member;
- absence due to domestic abuse, sexual assault or stalking of an employee or their family member;
- closure of an employee’s workplace due to weather or public emergency or closure of their family member’s school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that an employee or their family member is at risk of infecting others with a communicable disease.

(b) Advance Notice for use of Earned Sick and Safe Leave

If the need for sick and safe leave is foreseeable, the city requires seven days’ advance notice to the Mayor. However, if the need is unforeseeable, employees must provide notice to the Mayor of the need for Earned Sick and Safe time as soon as practicable.

(c) Documentation

When an employee uses Earned Sick and Safe time for more than three consecutive days, the city may require appropriate supporting documentation (such as medical documentation supporting medical leave, court records or related documentation to support safety leave).

(d) Carry Over of Earned Sick and Safe Leave

Employees are eligible for carry over accrued but unused Earned Sick and Safe time into the following year, but the total of Earned Sick and Safe Leave carry over hours shall not exceed 80 hours.

(e) Retaliation prohibited

Retaliation against employees who request or use earned sick and safe time is prohibited. Each employee has the right to file a complaint or bring a civil action if earned sick and safe time is denied by the employer or the employee is retaliated against for requesting or using earned sick and safe time.