

December 7, 2010

A regular meeting of the Scandia City Council was held on the above date. Mayor Seefeldt called the meeting to order at 6:03 p.m. Following the Pledge of Allegiance, roll call was taken. The following council members were present: Council members Connie Amos, Pete Crum, Dolores Peterson and Mayor Dennis Seefeldt. Council member Chris Ness joined the meeting at 6:45 p.m. Staff present: City Administrator Anne Hurlburt, City Attorney Dave Hebert, City Planner Sherri Buss, Building Official/Maintenance Supervisor Steve Thorp, Treasurer Colleen Firkus and Deputy Clerk Brenda Eklund.

APPROVAL OF AGENDA

Council member Peterson added a discussion of road conditions to the agenda. **Peterson, second by Amos, moved to approve the agenda as amended. The motion carried 4-0.**

PUBLIC HEARING: 2011 BUDGET AND TAX LEVY

State law requires that a public hearing be held on the 2011 Budget and Tax Levy. City Administrator Anne Hurlburt presented an overview of the draft budget, which was prepared during the Council's work sessions and from the hearing on the draft Capital Improvements Program in November. A levy increase of 4.95% is proposed, reflecting a projected 3.3% increase in spending. A 10% increase in debt service spending and a 1.4% increase in general fund expenditures are planned. An increase to contractual street maintenance is intended, along with replacement of a dump truck/plow and mower. Revenue from all sources and funds is expected to be down 1.38% from 2010. The numbers presented showed the budget to be in balance.

Mayor Seefeldt opened the hearing for comments and questions.

An audience member who did not state his name asked about the tax bills on two parcels which he owns. He was directed to contact the City Assessor to discuss tax classification and values.

Susan Rodsjo, 21450 Pomroy Avenue: Planning Commissioner Rodsjo asked about the status of the request for planning a municipal parking lot in the Village Center which was brought forth at the hearing on the draft Capital Improvement Program in November. Ms. Rodsjo was informed that this will be referred to the Capital Improvements Committee for discussion at their meetings in 2011.

As there were no further comments from the public, Mayor Seefeldt closed the hearing.

Mayor Seefeldt announced that the final budget and levy adoption is scheduled for December 21, 2010 at 7:00 p.m.

2011 TOBACCO PRODUCTS SALES LICENSES

Four businesses have made applications for the sale of tobacco products in 2011. All applications have met the requirements of Ordinance No. 92. **Amos, second by Peterson, moved to approve Tobacco Products Sales Licenses for 2011 for Scandia Grocery & Deli, Todd's Home Center, Big Marine Lake Liquor Store and Big Marine Lake Store. The motion carried 4-0.**

2011 LIQUOR LICENSES

Two businesses have applied for renewal of their liquor licenses for 2011. The applications have met the requirements of Ordinance No. 93. **Peterson, second by Crum, moved to approve renewal of the liquor licenses for 2011 for The Scandia Creamery and Big Marine Lake Liquor Store. The motion carried 4-0.**

AMENDMENT TO CONSULTING AGREEMENT WITH AECOM TECHNICAL SERVICES, INC. FOR ZAVORAL MINING AND RECLAMATION PROJECT ENVIRONMENTAL IMPACT STATEMENT (EIS)

At its November 16 meeting, the Council postponed action on a proposed amendment to the city's agreement with AECOM. The amendment would add \$59,331 to the project cost, bringing the total contract to \$377,725. Tiller is required to reimburse the city for the entire cost of the study. Action was postponed so that the city could respond to comments made by Attorney Kieran Dwyer on behalf of TA-COS (Take Action – Conserve our Scandia). Mr. Dwyer questioned the timeline for the EIS and whether legal requirements are being met. City Attorney Hebert, with input from City Planner Buss and Environmental Quality Board staff, prepared a written response to the comments.

Mayor Seefeldt acknowledged that the attorneys for both the TA-COS group and for Tiller Corporation were present and each were given the opportunity to comment.

Kieran Dwyer, representing TA-COS, stated that Minnesota law gives the city the authority to deny Tiller Corporation's application on the basis of the zoning ordinance presently in force, regardless of the zoning ordinance that was in effect at the time the application was submitted. Mr. Dwyer reiterated the 280-day time limit of concluding the EIS study, and that an extension must be due to good cause.

Greg Korstad, representing Tiller Corporation, stated that it would be unjust to terminate the project at this point. Tiller has been proceeding in the context of the rules that have been provided to them by the city, and have made significant changes to the project while under the review process. The EIS study is undergoing a thorough review which takes time to complete due to the sensitive resources.

Bill Clapp, 19955 Quinnell Avenue, stated that he thought it was unfair that Tiller Corporation applied for a Conditional Use Permit right before the Comprehensive Plan was adopted.

Randy Ferrin, 23290 Quentin Avenue, stated the preparation of the EIS is taking much longer than any he has seen in his years of working for the National Parks Service.

City Attorney Dave Hebert summarized his findings in the review of the applicable statutes of this project. Mr. Hebert stated that the 280-day time limit is frequently exceeded and does not stop the EIS process. There is no statutory penalty imposed on the City or the proposer for failure to abide by the time limitation, and it could be argued that the City and Tiller have, by their mutual actions, consented to the extension of time to complete the EIS.

In regards to enforcement of the zoning code now in effect, which prohibits mining at the Zavoral site, Mr. Hebert stated that applicants are clearly entitled to rely on the rules and regulations in effect at the time their applications are submitted. Mr. Hebert advised that the City should carefully proceed to a conclusion of the EIS in order to furnish the Council with all of the

facts necessary to fully inform it in making its decision on the granting of the CUP. Ending the process at this point could possibly leave the City open to a variety of legal claims.

Council member Peterson commented that staff, the consultants, and the special interest group TA-COS have all worked in good faith and the EIS should be allowed to come to a conclusion.

Council member Crum asked about the final reclamation plan. Mike Caron, Tiller Corporation's Director of Land Use Affairs, stated that reforestation and prairie rejuvenation will leave the parcel in a final vegetative state. Mayor Seefeldt commented that the property is zoned Agriculture Core and could be developed according to allowed uses.

Council member Crum stressed that the timeline should be firmed up and a schedule of a completion of the study be submitted to the city.

Peterson, second by Amos, moved to approve an amendment to the consulting agreement with AECOM Technical Services, Inc. for preparation of the Zavoral Mining and Reclamation Project EIS, in the amount of \$59,331. Mayor Seefeldt asked for a roll call vote. Amos – yes; Crum – yes; Ness – yes; Peterson – yes; Seefeldt – yes. The motion carried 5-0.

Crum, second by Ness, moved to direct staff to work with AECOM and Tiller Corporation in developing a timeline for completion of the EIS study. The motion carried 5-0.

JOINT POWERS AGREEMENT WITH WASHINGTON COUNTY REGARDING THE OFFICIAL MAP OF BIG MARINE LAKE PARK RESERVE

Washington County has adopted an official map of the boundaries of the Big Marine Lake Park Reserve, of which approximately 15 parcels (85 acres) lie within the City of Scandia. This land is designated for future public purposes and subject to additional regulations. Washington County staff and City staff have discussed the procedures to be used if owners of land within the official map area apply to the city for building permits. The County ordinance requires that building permits be denied until the County Board of Adjustment determines whether a permit would be issued, or whether the County would acquire the property.

Don Theisen, Washington County Engineer, was present to answer any questions regarding a Joint Powers Agreement between the City and County which would indemnify the city of any liability that may arise from enforcement of the county ordinance.

Council member Peterson asked how the property owners would be affected. Mr. Theisen explained that historically the County has approved building permits for improvements such as decks and garages; but if a property owner were to submit plans for new construction, the County would look into negotiating a purchase of the property. The County only purchases property on a "willing seller" basis, and not through eminent domain.

Peterson, second by Ness, moved to approve a Joint Powers Agreement with Washington County regarding the Official Map of Big Marine Lake Park Reserve. The motion carried 5-0.

PAY REQUEST #2 AND FINAL FOR THE 2010 SEAL COAT AND BITUMINOUS PATCHING PROJECT

Allied Blacktop Company has submitted a request for final payment of \$8,227.11 for completion of the 2010 Seal Coat and Bituminous Patching Project. City Engineer Paul Hornby has recommended approval of the payment. **Peterson, second by Crum, moved to approve Pay Request #2 and Final to Allied Blacktop Company for the 2010 Seal Coat and Bituminous Patching Project in the amount of \$8,227.11. The motion carried 5-0.**

2011 MEETING SCHEDULE

City Administrator Hurlburt presented a draft schedule for the regular meeting dates of the City Council for 2011. **Ness, second by Peterson, moved to approve the City Council Regular Meeting Schedule for 2011. The motion carried 5-0.**

2011 PROPOSED BUDGET, FOREST LAKE CABLE COMMISSION (RESOLUTION NO. 12-07-10-01)

The Joint Powers Agreement of the Forest Lake Cable Commission requires that the annual budget be approved by resolution by the member cities. Council reviewed the Cable Commission's 2011 budget. **Peterson, second by Ness, moved to adopt Resolution No. 12-07-10-01, Approving 2011 Budget of the Forest Lake Cable Commission. The motion carried 5-0.**

REPLACEMENT OF PICKUP TRUCK WITH PLOW

City Administrator Hurlburt presented the Council with quotes of several models of GMCs and Fords to replace the 1995 GMC pickup truck. The current truck is in very poor condition and the cost of repairs greatly exceeds the value of the truck. The most favorable purchase of a ¾ ton, 4-wheel drive pickup truck was identified through the State of Minnesota's cooperative purchasing contract. The possibility of purchasing a used vehicle was investigated, but the purchase price exceeded the cost of buying a new vehicle off of the state contract. **Peterson, second by Ness, authorized staff to proceed with the purchase of a Ford F250 from Midway Ford in the amount of \$21,723.49. The motion carried 5-0.**

DISCUSSION OF ROAD CONDITIONS

Council member Peterson relayed complaints she had received regarding the plowing of city streets. Building Official/Maintenance Supervisor Steve Thorp will discuss these concerns with the Public Works department.

ADJOURNMENT

Ness, second by Peterson, moved to adjourn the meeting. The motion carried 5-0.

The meeting adjourned at 7:50 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk