

November 5, 2008

A regular meeting of the Scandia City Council was held on the above date. Mayor Seefeldt called the meeting to order at 7:00 p.m. The following councilmembers were present: Council members Pete Crum, Michael Harnetty, Dolores Peterson, Donnette Yehle, Mayor Dennis Seefeldt. Staff present: Administrator Anne Hurlburt, City Attorney Dave Hebert, City Planner Sherri Buss, Building Official Steve Thorp, Deputy Clerk Brenda Eklund.

APPROVAL OF THE AGENDA

A discussion of Board of Review training for council members was added to the agenda.

Councilmember Yehle, seconded by Councilmember Peterson, moved to approve the agenda as amended. The motion passed unanimously.

CERTIFICATION OF UNPAID CHARGES FOR 201 SEWER SYSTEM - RESOLUTION 11-04-08-01

Mayor Seefeldt opened the public hearing to allow property owners with unpaid accounts for the 201 Community Sewage Treatment System the opportunity to object to the certification of unpaid charges. There were no public comments and Mayor Seefeldt closed the hearing. A resolution incorporating the users' names and amounts due was presented to the council. The property owners have 10 days to pay the delinquent amount, after which the amount will be billed to the owner's property tax statement payable in 2009, at 7% interest. **Councilmember Peterson, seconded by Mayor Seefeldt, moved to adopt Resolution 11-05-08-01 Certifying Unpaid Charges for the 201 Community Sewage Treatment for Collection with Property Taxes. The motion passed unanimously.**

CANVASS RESULTS OF NOVEMBER 4, 2008 ELECTION - RESOLUTION 11-04-08-02

Council was presented with a resolution declaring the results of the November 4, 2008 municipal election. Mayor Seefeldt was re-elected, and John Lindell and Connie Amos were elected to four year terms on the City Council. **Councilmember Peterson, seconded by Councilmember Harnetty, moved to adopt Resolution 11-04-08-02 Certifying the Results of the November 4, 2008 City Election. The motion passed unanimously.**

REPORT ON PERFORMANCE REVIEW

Mayor Seefeldt presented a verbal report on the special closed meeting held on October 27, 2008 for the purpose of Administrator Hurlburt's performance review. The Council had positive comments and discussed ways in which staff and Council could work together to improve the functions of the administrator's position.

SCANDIA DAY AT TROLLHAUGEN – DECEMBER 27, 2008

The Park and Recreation Committee have proposed to sponsor a "Scandia Day at Trollhaugen" event similar to last year's snow tubing event. The City will handle the registrations and release forms for participants. **Councilmember Harnetty, seconded by Councilmember Peterson, moved to approve the Park and Recreation Committee's proposed "Scandia Day at Trollhaugen" tubing event on December 28, 2008. The motion passed unanimously.**

APPOINTMENT OF PART-TIME SEASONAL MAINTENANCE WORKERS

Interviews were recently held with candidates for the part-time, seasonal maintenance worker position. The Human Resources Committee (Council members Crum and Peterson and Administrator Hurlburt) has recommended the hiring of Rick Regnier, for approximately 24 hours per week at the pay rate of \$17.00 per hour. In addition, the Committee recommends that Bruce Swenson, Bob Lindblom and Roger Rydeen be appointed to assist with snow removal on an “on-call” basis at the pay rate of \$17.00 per hour. **Councilmember Yehle, seconded by Councilmember Peterson, moved to approve the appointments for part-time seasonal maintenance workers as recommended by the Human Resources Committee. The motion passed unanimously.**

APPOINTMENT OF ACTING PUBLIC WORKS SUPERVISOR

With Public Works Supervisor John Morrison out on medical leave, the Human Resources Committee has recommended the temporary appointment of Maintenance Worker Mike Egelkraut to serve as Acting Public Works Supervisor, at a pay rate of \$21.00 per hour. **Councilmember Peterson, seconded by Councilmember Crum, moved to approve the appointment and pay increase as recommended by the Human Resources Committee for Mike Egelkraut, effective November 1, 2008. The motion passed unanimously.**

ANNUAL OPERATORS PERMITS, MINING OPERATIONS

The applications for Annual Operator’s Permits for the three mining operations in Scandia were initially considered by the Council at the September 16, 2008 meeting and tabled until complete information was submitted. City Planner Sherri Buss presented recommendations for each application.

Bracht Bros., Inc.

Two significant items remain to be completed as required by the Conditional Use permit issued in May 2008. A groundwater monitoring well was incorrectly installed in a perched system and not deeply enough to reach the water table aquifer. A new well needs to be constructed that monitors the aquifer as required. Secondly, a letter of credit or other security must be provided to the City. **Councilmember Peterson, seconded by Mayor Seefeldt, moved to continue to table the request for an Annual Operator’s Permit for Bracht Bros., Inc. until all conditions are met. The motion passed unanimously.**

Dresel Contracting, Inc.

City Planner Buss recommended approval of the Annual Operator’s Permit for Dresel Contracting with a condition that the Applicant provide the required Letter of Credit or other security to the City. All conditions of Dresel’s CUP have been fulfilled. **Councilmember Harnetty, seconded by Councilmember Crum, moved to adopt Resolution 11-05-08-03 Approving the Annual Operating Permit Application of Dresel Contracting, Inc. for Sand and Gravel Mining and Processing. The motion passed unanimously.**

Tiller Corporation, Inc.

Due to the detection of Diesel Range Organics (DRO’s) in samples from one of the groundwater monitoring wells, it was necessary to allow the MPCA to resample and determine what actions, if any, would need to be taken. Planner Buss received the results just prior to the meeting which

detected no presence of DRO's in the follow-up sample. The MPCA recommends no further action other than the regular monitoring. Kirsten Pauly, Sunde Engineering, clarified that the well in which the DRO's were detected was considered a background monitoring well to provide a baseline sample, and not within the parameters of the monitoring well network. Other than providing a Letter of Credit, all other conditions of Tiller's CUP have been met. A resolution approving Tiller's AOP will be presented to the council at their next regular meeting.

Councilmember Yehle, seconded by Mayor Seefeldt, moved to table Tiller's AOP application to the November 18, 2008 council meeting. The motion passed unanimously.

UTILITY PERMIT FOR U.S. CABLE

U.S. Cable has applied for a utility permit to install a CATV under Oren Avenue, at two locations. **Councilmember Crum, seconded by Councilmember Peterson, moved to approve the Utility Permit for U.S. Cable. The motion passed unanimously.**

BOARD OF REVIEW TRAINING

It will be necessary to have at least one councilmember receive Appeal and Equalization Training so that the City may schedule a Board of Review next year. Councilmember Crum and Mayor Seefeldt indicated that they will attend a County Board training on December 18th.

The Planning Commission meeting was called to order at 7:30 p.m. The following were present: Commission Chair Chris Ness, Commissioners Tom Krinke, Christine Maefsky, Susan Rodsjo, Peter Schwarz and City Planner Sherri Buss.

TOM AND LISA STANEK – VARIANCES FOR NEW CONSTRUCTION, CONTINUED

The public hearing on the application of Tom and Lisa Stanek for variances including lot size and lot setback to construct a new home on a vacant lot located at 19107 Layton Avenue was continued from the September 2nd meeting.

Administrator Hurlburt gave a summary of a meeting held on September 23rd for the purpose of discussing the long-term status of the 201 collector system. The conclusions determined that the sewer system has capacity to serve the proposed new home.

City Planner Buss presented the planner's report which recommended approval of the variances with findings and conditions which were incorporated into a draft resolution.

Commissioner Schwarz asked for clarification that lot coverage does not exceed 25% and the building height is less than 35 feet. Building Official Thorp confirmed that the proposed construction meets the ordinance.

Commissioner Krinke asked for details which lessened the lot coverage from a previous submission. The Applicant's builder explained that the driveway was narrowed, the size of the garage reduced and the permeable paver issue resolved. Lot coverage is under 25%.

Commissioner Maefsky asked if the drainage issue has been considered, as neighboring property owner Brad Bergo felt a structure on this lot would lead to flooding onto his property. Mr.

Stanek replied that topographical maps show that natural drainage will not be altered. Installation of rain gardens will enhance the drainage.

Commissioner Schwarz asked for confirmation that the house will be above the OHW, which Stanek's architect confirmed.

Chairman Ness opened the public hearing.

Liz Kramer, 19126 Layton Avenue: Ms. Kramer addressed a comment to Mr. Stanek which Chairman Ness ruled to be out of order.

Brad Bergo, 19123 Layton Avenue: Mr. Bergo asked for an explanation of lot coverage calculations. Planner Buss stated that coverage is determined electronically and does not exceed 25%.

Chairman Ness closed the public hearing.

Commissioner Schwarz moved to approve draft Resolution 11-05-08-04 Approving the Variance Request for 19107 Layton Avenue. For purpose of discussion, Chairman Ness seconded the motion.

Chairman Ness stated that he was opposed to granting the variances for new construction. He felt this would set a precedent for future new construction, and cited that in the past, most variances were granted to lots which already had existing structures.

Commissioner Maefsky also stated opposition, as the applicant was aware of the small lot size when he purchased it, and does not feel that a hardship can be justified. Commissioner Maefsky stated concerns of the questionable capacity of the 201 sewer system, and cited a letter submitted by David Berg which questioned how development can be allowed on a substandard lot.

Commissioner Rodsjo stated opposition due to the potential detrimental effects new construction could have on lake quality, and that the owner was aware of the small lot size when purchased.

Commissioner Krinke, also opposed, felt this was too much house for too little of a lot. The magnitude of the variance request for lot size, near 90%, is not reasonable. This is an example of a large house being shoehorned into a small lot. Protection of lakes and streams should factor into the Commission's decision.

Chairman Ness asked for a vote on Commissioner Schwarz's motion to approve the variance request. Voting yes: Schwarz. Voting no: Rodsjo, Ness, Maefsky, Krinke. Motion failed.

Chairman Ness, seconded by Commissioner Krinke, moved to recommend to the City Council to deny draft Resolution 11-05-08-04 with the following findings: 1) It is a vacant lot with no pre-existing structure; 2) The size of the lot was known when purchased; 3) There is potential negative impact to lake quality; and 4) The size of the house is too large for the small lot. Voting yes: Rodsjo, Ness, Maefsky, Krinke. Voting no: Schwarz. Motion passed.

The council discussed the Planning Commission's recommendation to deny the variance request.

Councilmember Peterson stated that she agrees with the Planning Commission's decision to deny the request as the small lot has been assessed for property tax purposes as unbuildable and connecting into the 201 sewer system may lead to future problems.

Councilmember Crum asked for City Attorney Hebert's advice on this matter. Hebert explained that this is a reasonable use of property and the variance request is similar to other lots on the lake that received approval. The meeting of September 23rd with Washington County verifies that there is space on the 201 sewer system for future hook-ups. In addition, being that the lot was in separate ownership, it meets the qualifications of a legal non-conforming lot. The findings given by the Planning Commission for denial may not be defensible in court.

Councilmember Yehle stated that this variance request for lot size and setbacks is similar to approved requests granted to surrounding lots. Best Management Practices to control run-off can minimize impact to the lake. Research has verified that the 201 system does have capacity for additional hook-ups. The applicants have complied with requests to alter the house plans to fit into the neighborhood. For these reasons, Councilmember Yehle sees no reasons to deny the variance request.

Councilmember Crum stated that even though this looks like poor planning from years ago when initially platted, the intent was to consider this a buildable lot, and cannot find sufficient reason for denial.

Councilmember Harnetty stated his view that the 201 sewer system appears robust and able to accommodate additional hook-ups. A point was made earlier that there is no such thing as an unbuildable lot once certain conditions are met. The Planning Commission's findings appear thin and may not hold up in court.

Mayor Seefeldt sees this variance request as consistent with those necessary for this neighborhood. The applicant did downsize from the earlier submission and has BMP's such as raingardens in place to manage stormwater runoff. The owners paid a full assessment on the road project in 1998, which then classified the lot as buildable. It would be on thin ice to deny this variance request.

Mayor Seefeldt suggested a few additions to the conditions of the draft resolution, including working with the city and watershed district to install landscaping for screening and stormwater management. An easement shall be granted to allow for inspection and maintenance to any BMPs. If necessary, the cost of maintenance shall be assessed back to the landowner.

Councilmember Yehle, seconded by Councilmember Harnetty, moved to adopt Resolution 11-05-08-04 Approval of Variance Request for 19107 Layton Avenue as amended. Voting yes: Crum, Seefeldt, Harnetty, Yehle. Voting no: Peterson. Motion passed.

JIM AND NANCY HERMES – MINOR SUBDIVISION AND VARIANCE IN KIRKHILL ESTATES

City Planner Buss summarized the request submitted by applicants Jim and Nancy Hermes. They have requested a minor subdivision to create two parcels, which also requires a variance to exceed the maximum 4 per 40 density for property located at 22577 Kirk Avenue. The property was once two separate lots as part of the Kirkhill Estates subdivision (Lots 6 and 7, Block 2) when platted in 1972. The two lots were combined into one 4.6 acre parcel in 1995 by the applicants for tax purposes. The proposed Parcels A and B are each 2.3 acres in size. Zoning regulations have changed since the original subdivision. Planner Buss recommended approval of both the minor subdivision and variance based on findings outlined in a draft resolution.

Chairman Ness opened the public hearing. There were no comments and the hearing was closed.

Commissioner Maefsky asked for clarification of the County's soil reports.

Commissioner Schwarz asked for verification that the request meets the minor subdivision ordinance. City Attorney Hebert stated that the request fits the intent of the ordinance.

The Planning Commission recommended approval of the minor subdivision and variance request for Jim and Nancy Hermes.

Councilmember Harnetty, seconded by Councilmember Peterson, moved to accept the recommendation of the Planning Commission to adopt Resolution 11-05-08-05, Minor Subdivision and Variance Request for 22577 Kirk Avenue North. The motion passed unanimously.

WILLOWBROOK COMMUNITY CHURCH – FINAL ACTION ON CUP

The review period for Willowbrook Community Church's application for a Conditional Use Permit for a place of worship on a 40.5 acre site west of 11262 Scandia Trail will expire on November 17, 2008. The applicant has not fulfilled the conditions outlined in Resolution 03-05-08-03 which set criteria for approval of a CUP. A revised site plan was requested, along with screening, landscaping and lighting plans. Willowbrook Church appears to have abandoned their plan to construct a church at this site.

The Planning Commission recommended adoption of a resolution denying the CUP application.

Councilmember Peterson, seconded by Councilmember Crum, moved to accept the recommendation of the Planning Commission to adopt Resolution 11-05-08-06, Denying Application by Willowbrook Church for a Conditional Use Permit. The motion passed unanimously.

Councilmember Yehle, seconded by Councilmember Peterson, moved to adjourn. The meeting adjourned at 8:40 p.m.

Respectfully submitted,
Brenda Eklund, Deputy Clerk