

April 19, 2011

A regular meeting of the Scandia City Council was held on the above date. Mayor Simonson called the meeting to order at 7:00 p.m. Following the Pledge of Allegiance, roll call was taken. The following council members were present: Council members Connie Amos, Chris Ness, Jim Schneider, Sally Swanson and Mayor Randall Simonson. Staff present: City Administrator Anne Hurlburt, City Attorney Dave Hebert, City Planner Sherri Buss, Building Official/Maintenance Supervisor Steve Thorp, Fire Chief Jim Finnegan, Police Deputy Chris Majeski, Treasurer Colleen Firkus and Deputy Clerk Brenda Eklund.

### **PUBLIC FORUM**

*Kristin Tuenge, 20595 Quinnell Avenue:* Ms. Tuenge stated that there are many concerns that Tiller has failed to honor two of the deadlines for submission of reports and studies in preparation of the Zavoral Mining and Reclamation Project EIS. Ms. Tuenge pointed out that these delays appear disrespectful to the City and the consultants, and questioned how Scandia can trust that Tiller will comply with the decision of the EIS.

*John Lindell, 11240 218<sup>th</sup> Street:* Mr. Lindell stated that he objects to language in Tiller's AOP application that interprets expansion of the existing asphalt plant. Mr. Lindell also has issues with the screening and berms along the property lines, and stated that mining into the groundwater could have possible contamination consequences. He urged the Council to adopt strong oversight over Tiller's operations.

### **APPROVAL OF THE AGENDA**

**Ness, seconded by Swanson, moved to approve the agenda as presented. The motion carried 5-0.**

### **CONSENT AGENDA**

The following Consent Agenda was presented:

- a) Minutes
  - 1) March 15, 2011 Regular Meeting
  - 2) March 22, 2011 Special Meeting
  - 3) April 11, 2011 Board of Appeals Meeting
  - 4) April 12, 2011 Work Session
- b) Treasurer's Report

Beginning Balance 03/01/2011	\$1,929,104.13
Receipts	+ <u>29,723.89</u>
Expenditures 175,115.92	
Payroll <u>25,002.83</u>	- 200,118.75
Adjustments: reverse bank charges	<u>35.25</u>
Ending Balance 03/31/2011	\$1,758,744.52
- c) Payment of Vouchers
- d) Hire Tennis Instructor for 2011 Summer Recreation Program
- e) Hire Skateboarding Instructor for 2011 Summer Recreation Program
- f) Approve Special Event Permit, Scandia PTO Fun Run (May 21, 2011)

- g) Approve Temporary On-Sale Liquor License for Washington County Historical Society (June 25, 2011)
- h) Approve Agreement with Bolton & Menk for Uptown Sewer System Master Plan
- i) Approve Licensing Agreement and Letter of Agreement with Washington County for Bolton & Menk's use of Mapping Data for Uptown Sewer System Master Plan
- j) Approve Agreement with Girl Scouts of Minnesota and Wisconsin River Valleys for Summer 2011 Recreation Programs
- k) Approve 2011 Contract with Lakes Area Youth Service Bureau

Council member Schneider requested that the contract for janitorial services be a discussion item at the May 10 workshop meeting.

**Ness, seconded by Amos, moved to approve the Consent Agenda as presented. The motion carried 5-0.**

**PUBLIC HEARING: LIQUOR LICENSE VIOLATION, MI CASITA MEXICAN GRILL, CHIKOS ENTERPRISES, INC. LICENSEE (RESOLUTION 04-19-11-01)**

A public hearing was held for the purpose of determining the civil penalty to be imposed for a liquor license violation at Mi Casita Mexican Grill, 21050 Ozark Avenue. Council member Schneider recused himself from participating in the hearing, as he is an owner of the building occupied by the business.

The following evidence was entered into the record:

- 1) Letter dated October 19, 2010 from the Washington County Sheriff's Department notifying the City that Mi Casita Mexican Grill had failed an alcohol compliance check on October 15, 2010.
- 2) Initial Complaint Report dated October 15, 2010. An alcohol compliance check was conducted by the Washington County Sheriff's Department. Mi Casita Restaurant failed the compliance check by serving alcohol to an underage buyer. Identification of the buyer was not checked.
- 3) Letter dated November 22, 2010 to Mr. Adrian Quintana, from City Administrator Hurlburt, requesting submission of their 2011 liquor license renewal. The letter explained that a hearing date on the violation would be scheduled after the criminal case had been concluded.
- 4) Letter dated April 10, 2011 to Mr. Adrian Quintana from City Administrator Hurlburt advising the owner of the date and time of the public hearing.
- 5) Letter dated April 12, 2011 from prosecuting attorney Mr. Welch to the Washington County Sheriff's Department. The letter confirmed that the server plead guilty to the charge of furnishing alcohol to an underage person.

Administrator Hurlburt explained that the business also failed an alcohol compliance check on December 30, 2010. After a hearing on April 20, 2010 the City Council imposed a one-day

license suspension and a civil penalty of \$500.00. For a second violation, City Ordinance No. 93 specifies that there shall be a minimum suspension of 3 consecutive days and a minimum presumptive civil penalty of \$1,000.00.

Mr. Adrian Quintana addressed the council. Mr. Quintana stated that the server's inexperience contributed to his failure to check for identification. The business has scheduled alcohol and tobacco compliance training for all employees to attend in May. He now has a policy to only hire workers over the age of 21. He feels that he has made efforts to hire workers with previous training in the checking of ID's. Mr. Quintana stated that the business has since passed several alcohol compliance checks conducted by the Sheriff's Department.

Mayor Simonson asked if the business has a scanning device to validate the age of a buyer. Mr. Quintana stated that the pull-tab operation uses a tool to scan driver licenses that provides a printout of information which does indicate a person's age.

Mayor Simonson declared that this second violation has shaken his confidence in the ability of the business to responsibly serve alcohol. He appreciated the steps taken to correct the actions, but stressed that the message of correctly checking identification needs to be strongly enforced.

Council member Ness expressed his disappointment that the business failed compliance checks twice in one year. If there would be a third violation, the imposed penalty should be much more severe than the minimum.

There were no additional comments and the hearing was closed.

**Simonson, seconded by Ness, moved to adopt Resolution No. 04-19-11-01, Imposing License Suspension and Civil Penalties on Mi Casita Mexican Grill/Chikos Enterprises Inc. for Liquor License Violation with findings included herein. The penalties stated in the resolution included:**

- 1. The license shall be suspended for a period of three (3) consecutive days, said suspension to begin on Monday, April 25, 2011.**
- 2. A civil penalty of \$1,000.00 which shall be paid to the City of Scandia within 30 days.**

**The motion carried 4-0, with Schneider abstaining.**

#### **PARK AND RECREATION COMMITTEE**

##### ***Proposed Eagle Scout Project, Kyle McCleary***

Kyle McCleary, member of Scandia Boy Scout Troop 173, presented plans for his Eagle Scout project. Kyle is proposing to make improvements at the Lighted Ballfield, including a new scoreboard and a wooden screen around the portable toilets. The Park and Recreation Committee had reviewed the plans and recommended approval of the project.

Kyle will be responsible for raising funds and arranging for the labor to complete the project this summer. He asked if it is allowable to sell advertising space on the scoreboard sign, but was informed that advertising such as this does not conform to the City's current sign ordinance.

**Simonson, seconded by Amos, approved the conceptual plans of the project, with the condition that the Park and Recreation Committee approve the final plans and materials. The motion carried 5-0.**

***Park Work Day Schedule for 2011***

Park and Recreation Committee Chair Alex Bildeaux reported that volunteer work days for improvements to the City parks have been scheduled. Volunteers will meet on the fourth Saturday (9:00 a.m. to noon) and the second Wednesday (5:00 p.m. to dusk) of every month, starting April 23 through October, except for the month of July.

**PLANNING COMMISSION: VARIANCES FOR LOT SIZE AND SETBACKS TO ALLOW CONSTRUCTION OF A SINGLE FAMILY DWELLING AT 19770 MAXWILL AVENUE. TIMOTHY BOLTON, APPLICANT (RESOLUTION NO. 04-19-11-02)**

The Planning Commission held a public hearing on April 5 on Timothy Bolton's application to construct a single family dwelling at 19770 Maxwill Avenue. Variances for lot size, a setback of 82 feet from the OHW and a variance from the minimum requirement for frontage on a public road were approved by the Planning Commission.

City Planner Sherri Buss presented a summary of the planner's report. Minnesota DNR staff recommended that the stairway and deck be relocated to meet the 100-foot setback, as these structures do not meet the hardship requirement. Findings and conditions for approval were incorporated into a draft resolution.

Council member Schneider asked for a description of the surrounding properties. There are small cabins to the south and a vacant lot north of 19770 Maxwill Avenue. Council member Ness stated that a large house does not match the character of the neighborhood, but the house will be a comparable distance from the lake as the neighboring cabins.

Council member Schneider asked how lot coverage would be verified to be under 25%. Planner Buss replied that this will be confirmed with the final building plans that are submitted for a building permit.

**Ness, seconded by Swanson, moved to accept the recommendation of the Planning Commission and adopt Resolution No. 04-19-11-02, Approving Variances for 19770 Maxwill Avenue North. The motion carried 5-0.**

**POLICE DEPARTMENT**

Police Deputy Chris Majeski reported on the past month's police activity. The number of traffic complaints has declined, but there have been a number of trash dumping incidents. The DARE graduation was recently held for the Scandia Elementary sixth grade students. Mayor Simonson commended Deputy Majeski for his efforts in offering the DARE program to the students.

**FIRE DEPARTMENT**

Fire Chief Jim Finnegan reported that the department responded to eleven calls in March, ten which were medical calls. Three of the new firefighters recently passed Firefighter I certification,

and Majeski and Rydeen have completed Firefighter II certification. Kertzscher has been certified as Fire Instructor I. The two house burns went very well last month, which included training with mutual aid departments.

***Accept Donation in Memory of John Morrison (Resolution No. 04-19-11-03)***

The Scandia Fire Relief Association has donated a bench on the grounds of the Firehall/Public Works facility in memory of John Morrison, who served for many years as a volunteer firefighter and maintenance worker for the City of Scandia. The bench will be formally dedicated during the Lion's chicken dinner fundraiser on April 30 at 4:00 p.m.

**Ness, seconded by Schneider, moved to adopt Resolution No. 04-19-11-03, Accepting Donation from Scandia Fire Relief Association in Memory of John Morrison. The motion carried 5-0.**

**BUILDING OFFICIAL/MAINTENANCE SUPERVISOR**

Building Official/Maintenance Supervisor Steve Thorp reported that frost boils and potholes have been an issue on the roads this spring, and the maintenance workers are filling and patching these using the portable hot mix trailer. The City was recently awarded a grant to abandon three wells, a requirement of the MPCA. Thorp is reviewing the Pavement Management Plan with City Engineer Hornby and will bring recommendations for 2011 road repair projects to the Capital Improvements Committee meeting in May.

***Replacement of Rear Ditch Mower***

The Capital Improvement Plan has budgeted for the replacement of the rear ditch mower attachment for this year. The current mower is a 2003 model with a planned replacement schedule of 8 years. Staff received a quote of \$5,565.51 for a Tiger Rear Flail mower from St. Joseph Equipment. This included the discounted state contract price and a trade-in value of \$3,000 for the old mower.

**Simonson, seconded by Ness, moved to authorize the purchase of a Tiger rear flail mower in the amount of \$5,565.51. The motion carried 5-0.**

Council member Ness recommended that staff investigate the sale of the old boom flail mower which was replaced last year. The dealer would not take a trade-in of this equipment.

**CITY ADMINISTRATOR**

***Zavoral Mining and Reclamation Project Environmental Impact Statement (EIS)***

City Administrator Hurlburt presented a status report on the preparation of Tiller's Zavoral site EIS. At the December 21 council meeting, a timeline for the completion of the EIS was presented. It established a number of deadlines for Tiller to submit required data and reports. Some, but not all, of the information had been submitted by the March 4 deadline. Among the outstanding reports are the economic data report and the restoration plans. It's estimated that the preparation of the EIS will be delayed 60 to 90 days or longer. The Project Advisory Committee (PAC) meeting originally scheduled for June, for the purpose of reviewing the technical data and issues, has been suspended to a future meeting date, perhaps to September.

Mike Caron, Tiller Corporation, and Kirsten Pauly, Sunde Engineering, addressed these delays. A meeting has yet to be scheduled with MnDOT due to their planning of an internal meeting to review the intersection data. The economic data report is projected to be available by the end of this week. The reclamation plans and woodland survey submissions are under review to be sure the details are consistent. Results of meetings with DNR staff and the Conservation District are in process. It was estimated that the final reports would be submitted by May 3.

Ms. Pauly explained that the length of time needed to collect and analyze the reports is not unusual in the preparation of an EIS. This site is particularly sensitive and additional time is necessary to ensure that the end product will be the highest quality studies done in a comprehensive and accurate manner.

The Council expressed their frustration in the delays and indicated that it's the perception that Tiller is dragging their feet. Mayor Simonson stated that it is unacceptable that Tiller is not meeting the requirements of the schedule and it puts the Council in a difficult situation.

Mr. Caron replied that it not the intent to be disrespectful to the City, but completing the details of the reclamation plan has been more time-consuming than anticipated. The report will be expedited within the next two weeks.

Administrator Hurlburt projected that if the reports are submitted and complete by May 3, the consultants might be able to determine a schedule for the next PAC meeting and staff could make another report at the May 17 council meeting.

**PARKING ON OLINDA TRAIL BETWEEN SCANDIA TRAIL AND 209<sup>TH</sup> STREET  
(POSTPONED FROM DECEMBER 21, 2010 MEETING)**

Earlier this past winter, parking became an issue in the Village Center district with vehicles being left overnight and not being moved before the plow trucks went by. This created large piles of snow left behind from the plow trucks going around the parked vehicles. The City's Ordinance No. 43 (no overnight parking on city streets) does not apply to County Road 3. Washington County has offered to install "no parking" signs if the City makes a request through the adoption of a resolution. The Council discussed this issue on December 21, 2010 and voted to postpone it to the April 2011 meeting, to allow the business owners an opportunity to find options to reduce the on-street parking problems. The property and business owners still appear to be in disagreement about a solution to the problem.

Sue Rodsjo, owner of the Select Hardwoods building at 21090 Olinda Trail, stated that it would be a hardship to the tenant of the lower apartment to post the street as "no parking." Off-street parking for the business vehicles was arranged this past winter, and overnight parking behind the auto service building will be allowed for the next year. Access to the rear of the building is not possible at this time. Ms. Rodsjo believed the parties could work out a reasonable solution.

Wayne Schmitt, property owner of adjacent buildings, stated that a temporary fix was worked out this year, but this issue needs to get resolved before moving snow is a problem once again next year. Street sweeping by the County in the spring also causes a difficulty. Mr. Schmitt is

willing to work together to find a solution to the parking troubles. There is space behind his building, but road access is blocked.

Mayor Simonson invited the property and business owners to the May 10 work session to further discuss this issue.

**APPROVE ANNUAL OPERATING PERMIT (AOP) FOR GRAVEL MINING AND PROCESSING, TILLER CORPORATION AT 23303 MANNING AVENUE (RESOLUTION NO. 04-19-11-04)**

The City Council considered Tiller's Annual Operating Permit at the March 15, 2011 meeting, but postponed action to the April 19 meeting to revise the conditions of approval that would clarify that the proportionality of mining and reclamation activities must occur over time, not year by year. Condition #5 of the resolution was revised to reflect this.

City Administrator Hurlburt addressed Mr. Lindell's concern about language in the application regarding expansion. There is nothing in the statement that is in conflict with the original Conditional Use Permit or in the mining ordinance language. The City was not aware of any issue with the berms or screening. Routine monitoring of the operation has found nothing out of compliance. The operation is following all rules of the state agencies in the reporting of groundwater monitoring.

Council member Ness inquired if Tiller has any plans for expansion. Mr. Caron replied that the asphalt plant is rated for a production of 600 tons per hour and there are no plans to increase this.

**Simonson, seconded by Ness, moved to adopt Resolution No. 04-19-11-04, Approving Annual Operating Permit Application of Tiller Corporation for Sand and Gravel Mining and Processing. The motion carried 5-0.**

**GAMBLING PREMISES PERMIT, CHISAGO LAKES ATHLETIC ASSOCIATION AT MI CASITA MEXICAN GRILL**

Tom Lawlor, Gambling Manager for the Chisago Lakes Area Athletic Association (dba LARA), has applied for a Gambling Premises Permit at the Mi Casita Mexican Grill, 21050 Ozark Avenue. The City's Ordinance No. 100 includes two criteria upon which this application may be denied: 1) Mi Casita's liquor license violations, and 2) the Scandia Marine Lions currently have an active gambling premises permit for this site (pull-tabs and bar bingo).

Council member Schneider recused himself from the discussion on the gambling application due to a conflict of interest as a property owner of the establishment.

Mr. Lawlor addressed the Council with a history of LARA, and the organization's offer to contribute gambling proceeds to maintenance of the local ballfields. Mr. Lawlor had a copy of a termination letter to the Lions from the owner of Mi Casita. Lions Gambling Manager Bruce Swenson stated that he had not yet received this termination letter.

Mi Casita owner Adrian Quintana explained that he is looking to expand gambling operations in an effort to attract more customers. Mayor Simonson questioned if allowing another gambling operation would be the solution to his revenue problems.

Council member Ness suggested that LARA gather additional information on the proposed expenditures which would benefit the Scandia community.

Mayor Simonson agreed that it would be in the best interest of all parties to postpone action on a decision. The 60-day review period runs through May 28, 2011.

**Simonson, seconded by Ness, moved to postpone action on the LARA's gambling permit application until the May 17, 2011 council meeting. The motion carried 3-1 with Swanson opposed. Schneider abstained from the vote.**

**AMENDMENTS TO 2011 EQUIPMENT REPLACEMENT FUND AND CAPITAL IMPROVEMENT FUND BUDGETS (RESOLUTION NO. 04-19-11-05)**

At the April 12 work session, the Council approved the purchase of a new heavy-duty tandem Mack truck to replace the 1997 Ford Dump Truck. The City will issue an equipment certificate in the amount of \$150,000, with the balance of the estimated \$199,000 purchase price to come from the Equipment Replacement Fund. It is necessary to amend the 2011 budget to reflect the change in the truck financing.

**Ness, seconded by Swanson, moved to adopt Resolution No. 04-19-11-05, Amending the 2011 Equipment Replacement Fund and Capital Improvement Fund Budgets. The motion carried 5-0.**

**ADJOURNMENT**

**Schneider, seconded by Swanson, moved to adjourn the meeting. The motion carried 5-0.**

The meeting adjourned at 9:47 p.m.

Respectfully submitted,

Brenda Eklund  
*Deputy Clerk*