

June 14, 2011

A work session meeting of the City Council was held on the above date. Mayor Simonson called the meeting to order at 6:30 p.m. The following 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, Building Official/Maintenance Supervisor Steve Thorp and Deputy Clerk Brenda Eklund.

### **APPROVAL OF THE AGENDA**

Council member Ness added a discussion of emergency contact information regarding the “201” Community Sewage Treatment System to the agenda. **Ness, second by Amos, moved to approve the agenda as amended. The motion carried 5-0.**

### **CONSIDER HIRING SPECIAL COUNSEL TO ADVISE ON ZAVORAL MINING AND RECLAMATION PROJECT EIS (ENVIRONMENTAL IMPACT STATEMENT)**

At a Special Meeting of the City Council held on May 26, 2011, Council member Swanson offered to gather information pertaining to the costs of obtaining a second legal opinion on the city’s actions in regards to Tiller Corporation’s mining application.

Council member Swanson reported that a proposal was received from attorney James Thomson, of Kennedy & Graven. Mr. Thomson estimated that a fee of \$7,500 to \$10,000 would be necessary to cover the amount of time and research required to provide a legal opinion on two questions:

1. Can the city apply its current zoning and land use regulations to the pending application rather than the zoning and land use regulations that were in effect when the application was submitted?
2. If the city council chooses to apply the existing zoning and land use regulations, what risks, if any, would the city be exposed to?

Council member Schneider stated that the cost estimate is too high to pursue a second legal opinion. Several attorneys are involved at this point. Schneider predicated that a lawsuit against the city may be filed regardless of the opinion of an outside counsel.

Council member Ness stated that he would have liked to see the estimate much lower in cost.

Council member Amos said that a second opinion is not needed, and \$10,000 is much too high a figure.

Mayor Simonson appreciated the public input concerning this issue. He stated that very thought provoking issues were presented at the May 26 council meeting. But under the circumstances at this point, with such a substantial cost to seek outside counsel, Mayor Simonson recommended that the city not seek a second legal opinion. Simonson felt that there was no evidence that City Attorney Hebert misrepresented the law which would warrant an outside counsel. He stated that the information presented by residents will be great value to the EIS review.

**Simonson, second by Amos, moved to not seek a second opinion on the City's legal authority regarding Tiller Corporation's mining application.**

Council continued discussion on the motion. Council member Ness inquired if there were any less expensive alternatives. Council member Swanson replied that based on the amount of research required, it may not be possible to obtain a lower proposal. Swanson had anticipated that she could provide enough preparation work as a city representative to obtain a proposal in the \$2,500 to \$5,000 range, but this was not the case. Swanson stated that the EIS process be allowed to continue and at that point, see where the city stands in needing outside counsel. The Minnesota League of Cities would be a source of legal representation if a lawsuit against the city were filed.

**Mayor Simonson called for a vote on the Simonson/Amos motion. The motion carried 5-0.**

Mayor Simonson called for a five minute recess.

**BUILDING OFFICIAL POSITION**

At the May 10, 2011 Council work session, Council member Schneider made a recommendation to eliminate or reduce the full-time position of Building Official/Public Works Supervisor. Administrator Hurlburt was directed to prepare a report for the Council's discussion.

Mayor Simonson asked Administrator Hurlburt for a summary of the council report. Hurlburt concluded that the creation of the Building Official position was well-founded based on the economics and needs of the city in 2007. Improved building-code services as well as planning and zoning administration have been the result of this full-time position. The duties were expanded in 2010 to include oversight of the public works department to provide improved management and address critical issues with the city's infrastructure. Building permit revenue more than covers the portion of time spent on building code work. By eliminating the position, the city would incur costs to hire consultants and could potentially lose opportunities for additional revenues. Staffing is at a lower level than it was five years ago. Eliminating any position will severely affect the city's ability to function and would result in major reductions in service to the public. Hurlburt suggested that the cost of the position would more accurately be accounted for if it were split among departments that the duties are divided among.

Council member Schneider said that building permit activity has declined to the point that staffing this position is no longer warranted and permits could be contractually serviced. He proposed that ad hoc committees could take on infrastructure issues. Schneider stated that the city cannot be spending money on this position in these times.

Mayor Simonson asked about operating costs of the 201 system. Hurlburt replied that the Washington County Public Health Department is contracted to operate the system at a staffing cost of approximately \$30,000 a year. The 201 system is a user funded enterprise.

Mayor Simonson opened the floor to public comments.

*Dan Lee, 19703 Olinda Trail:* Mr. Lee stated his opposition to eliminating the Building Official position. He felt it is a valuable position that has many responsibilities for the proper management of the city. Mr. Lee asked Council member Schneider to address the points made in the council report with solutions on how the duties would be handled upon elimination of the position.

*Kristen Clark, 14140 Scandia Trail:* Ms. Clark stated her agreement to Mr. Lee's comments. As a resident, she is concerned that the city needs expertise to monitor and facilitate the needs of the city. Ms. Clark asked for confirmation that the contracted Building Official received payments of \$134,397 in 2005. Building permit information was presented in the council report for the years 1999-2010.

*Dennis Seefeldt, 13809 Scandia Trail:* As the former Town Board Chair and Mayor, Mr. Seefeldt stated that he could provide history and input on this issue. In 2005, the Incorporation Study recommended hiring staff to replace services lost from the County and to handle planning and zoning matters. Code enforcement was a major issue that citizens requested be handled by staff. There were complaints of the high cost of the contractual building official with poor to no service provided. Mr. Seefeldt sees no cost savings for the city if the position were eliminated. There will still be expenses to provide the services, and the bottom line is that it would end up costing the taxpayers more money. The loss of essential services provided by a Building Official is a concern for many constituents, and he relayed comments from business owners Wayne Schmitt and Susan Rodsjo. Mr. Schmitt remarked that the old system involved waiting, getting no reply and no service. With a Building Official now on staff, permit applicants get great service and timely inspections. In summary, Mr. Seefeldt reiterated his points that service and accessibility would decline, and that costs to taxpayers would increase if the position were eliminated.

*Colleen Firkus, 15710 Pilar Road:* Ms. Firkus stated that in her 14 years as treasurer for the township and city, she has seen operations being run as very fiscally conservative. As the audit reports have shown, in the past three years the city has reduced expenses and increased revenues. The budget has been under spent and fund reserves built up. There is no fiscal crisis looming that justifies eliminating staff. Ms. Firkus stated that it would be a poor economic choice to eliminate staff.

*Kevin Nickelson, 11262 Scandia Trail:* Mr. Nickelson stated that he served on the Town Board for eleven years and acted as Road Supervisor during this time. Having a board member provide oversight to the maintenance department did not work well. The township greatly lacked code enforcement. The Uptown Sewer System had been neglected for many years and needs managing. Mr. Nickelson stated that the benefits of having a full-time Building Official/Maintenance Supervisor are well worth the cost.

*Sue Rodsjo, 21450 Pomroy Avenue:* Ms. Rodsjo provided comments in support of retaining the position of Building Official. Her experience with a building renovation project confirmed the high level of customer service this position provides. Ordinance enforcement is another important aspect that should not be eliminated.

*Steve Philippi, 21813 Quarry Avenue:* Mr. Philippi's comments were in favor of retaining this position. Mr. Philippi sees the city on an upward trajectory of the quality of services provided to the residents. He stated that cutting positions is not a solution to budget concerns and the council must think carefully before taking action.

There were no other public comments and Mayor Simonson closed comments from the floor.

Council continued discussion on this issue. Schneider stated that he was against filling this position from the start. He offered his reply to filling the duties when eliminating this position. He felt that the two workers in the maintenance department would be capable of working independently. The small load of building permits being issued could be handled by a contracted position. Administration could monitor developments, mining and zoning permits. Code enforcement should be left to the sheriff's department to handle. Council members would take on zoning issues. The Capital Improvements Committee would act as budget advisor. Ad-hoc committees could be formed to handle issues as needed, such as the Uptown Sewer System.

Mayor Simonson stated that dangerous dog issues were handled in the past by the town deputy, who was an employee of the township. That is no longer the case as the city has a contract with the Washington County to provide police services. Council member Schneider replied that dangerous dogs can be handled by police.

Mayor Simonson explained that he feels that the community appreciates the services provided by a Building Official and that the inspector offers his time to help citizens.

Council member Swanson understands that many cities are reducing staff and that building is at an all time low, but this position is split among other areas. She stated that costs could be saved by taking over the sewer management from the county as a means to save this position.

Administrator Hurlburt clarified points made by Council member Schneider that she felt were mischaracterized in his statements. The net expense of the position after factoring in revenue is \$33,482. The approach taken in establishing this position is providing a level of service to the residents that were not available when building permits were provided by a contracted service. Time spent on zoning matters is an important part of the permitting process. It is unrealistic to assume that the two employees in the Public Works department can plan and monitor all city infrastructure. Past experience in this situation showed that they did not have the time to devote to planning and oversight of the city's sewer, water, buildings and roads. Eliminating the position and adding to the Administrator's workload would lessen support to the council.

Council member Ness asked for clarification of the table on page 9, cost to eliminate the position. Hurlburt explained that a contractual building official received 70% of permit fees based on past history, but that number might actually be 80%, the current rate paid by other nearby communities. Council member Ness stated that the notion to rely on volunteer labor to perform work for the city is a dangerous one. He suggested Building Official/Maintenance Supervisor Thorp keep a log of calls and duties that he attends to.

Building Official/Maintenance Supervisor Thorp replied that this position covers a variety issues, including planning, zoning, engineering for utility permits and drainage matters. Although building permits take up a smaller portion of the duties, there are multiple areas that he oversees.

**Ness, seconded by Swanson, moved to retain the position of Building Official/Maintenance Supervisor with the added duties to oversee the operation of city managed sewer systems.**

City Administrator advised that the contract with Washington County to manage the 201 Community Sewer System would need to be reviewed and that duties would probably be a phased in process.

**Mayor Simonson called for a roll call vote on the Ness/Swanson motion. Schneider – no; Ness - yes; Swanson – yes; Amos – yes; Simonson – yes. The motion carried 4-1.**

**“201” COMMUNITY SEWAGE TREATMENT SYSTEM CONTACT INFORMATION**

Due to an emergency call-out for a septic failure over the weekend, Council member Ness suggested that all users of the 201 system be provided an emergency contact number. Staff will look into providing this with a future invoice mailing.

**AGENDA ITEMS FOR FUTURE WORK SESSION**

Council member Swanson suggested that service hours for the City office be discussed at the July 12 work session. Administrator Hurlburt will also prepare a report for discussion of the Community Center landscape improvements for that meeting.

**ADJOURNMENT**

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

The meeting adjourned at 8:25 p.m.

Respectfully submitted,

Brenda Eklund  
*Deputy Clerk*