

February 12, 2013

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: Mayor Randall Simonson, Council members Dan Lee, Chris Ness, Jim Schneider, Sally Swanson and Mayor Simonson. Staff present: City Administrator Kristina Handt, Attorney Vince Stevens, City Planner Sherri Buss, Maintenance Superintendent Tim Kieffer and Deputy Clerk Brenda Eklund.

### **APPROVAL OF THE AGENDA**

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

### **REVIEW DRAFT RESOLUTION OF 02-19-13-XX CONDITIONAL USE PERMIT FOR ZAVORAL MINE AND RECLAMATION PROJECT. TILLER CORPORATION, APPLICANT**

#### ***Denial Resolution from Planning Commission***

City Administrator Handt reviewed Planning Commission Resolution 01-07-13-01D, denying the Conditional Use Permit for the Zavoral Mine and Reclamation Project. Since the Council had taken a vote on January 15 to apply the 2020 Comprehensive Plan to the application, the review began on page 5 of the resolution. The findings of the resolution concluded that the application did not meet four requirements of the City's Code related to Conditional Use Permits. These were criteria 2, 3, 5, and 6 of Chapter 1, Section 8.4. Traffic, noise, property values and scenic viewshed impacts were some of the documented issues.

Handt reviewed each finding and explained how it either did not apply or the effects could be mitigated as recommended by the EIS.

Mayor Simonson asked the Council if they found any reasons to deny the CUP application. All Council members answered no, not at this point.

#### ***Approval Resolutions***

At the January 15 Council meeting, staff was directed to prepare a resolution to approve the CUP for the Zavoral Mine and Reclamation Project as discussed at that meeting. Following that meeting, staff met with Tiller representatives and discussed additional changes to the approval resolution. Administrator Handt recommended the Council review each draft resolution document side by side and direct staff as to which language concerning the conditions should be in the resolution for the February 19 Council meeting.

Council discussed the duration of the mining project. Ness stated he would like to see it completed in the shortest time possible, with three years being the maximum. Swanson suggested a two-year operation, but Planner Buss noted the difficulty of this timeline in that it was not studied in the EIS and there would be unknown traffic and hauling issues. Schneider recommended a minimum of five years, as this would not rush the project and have less traffic impacts. Lee agreed with a three year timeframe, but noted that additional time should be allowed for site preparation. Simonson stated that an accelerated rate of mining could have a destabilizing effect, but supported a three-year mining project.

Mayor Simonson asked if there would be any support to close the mining operation between Memorial Day and Labor Day, as Tiller indicated that they could potentially mine through the winter months. Ness supported this proposal, but Schneider, Swanson and Lee all were against this. Swanson noted that peak road construction projects occur in the summer months.

The Council discussed setting a maximum timeframe of 39 months which would allow for site preparation. Alternative 3 of the EIS studied a timeframe of 3.3 to 5 years. The Council decided on language which would begin the date of the project 30 days after the final permit from outside agencies was granted.

Council continued to go through each condition to which Tiller noted amendments. On the advice of staff and through Council discussion, these changes were either approved or the original language kept in. Planner Buss will further investigate the trail issue with MnDOT (Condition #54 of the redlined draft resolution). After concluding the review, staff was directed to prepare a resolution for approval at the February 19 meeting.

#### **REVIEW MONITORING PROTOCOL FOR ZAVORAL ANNUAL OPERATING PERMIT**

Planner Buss presented the staff report for Tiller's Annual Operating Permit for the Zavoral Site. Operating conditions and monitoring activities were discussed. Council member Swanson recommended increasing noise monitoring to a quarterly basis, during the mining season. It was also recommended to add a condition for surface water monitoring during the winter months.

Kristen Tuenge and Laurie Allman, representing the TACOS group, commented on conditions within the AOP.

Staff will prepare a resolution incorporating the recommended changes to the AOP for approval at the February 19 Council meeting.

#### **REVIEW DRAFT CONDITIONAL USE PERMIT COMPLIANCE AND RECLAMATION AGREEMENT**

Council reviewed the Compliance and Reclamation Agreement (also known as Developer's Agreement) which included the obligations of the Applicant in paying the City's costs and posting financial securities for completion of the reclamation actions.

Attorney Greg Korstad, representing Tiller Corporation, explained a hybrid proposal for security, rather than a single Letter of Credit for the duration of the project. This security would be comprised of a cash escrow to cover the City's incurred costs, an annual Letter of Credit equal to the amount of the estimated reclamation costs determined each year during the AOP approval process, and a Performance Bond in the amount of \$450,000 for the duration of the project.

Council discussed the proposal and on staff recommendation, concluded that the cash escrow be in the amount of \$40,000, to be replenished when the balance falls below \$5,000. In addition, a Letter of Credit should be set at an amount of the estimated reclamation costs for each year, and the Performance Bond set at \$550,000.

Tom Triplett, Friends of Scandia Parks and Trails, agreed that a three part approach to the financial security of the project is a novel idea and asked that additional language be included in the agreement to address release of the securities. Mr. Triplett stated that he would submit language to staff to require an independent, third-party review of the reclamation.

Kristen Tuenge asked if there should be a guarantee that no mining at this location be allowed once the project ceases. Attorney Stevens noted that it would be a non-conforming use and not necessary to define.

Council members indicated that they were comfortable with the terms of the agreement with the noted recommendations. Staff was directed to prepare a resolution for approval at the February 19 Council meeting.

Council member Schneider excused himself from the remainder of the meeting.

**DISCUSS CREATING ANIMAL CONTROL ORDINANCE RELATED TO CATS**

**Lee, seconded by Ness, moved to postpone discussion on creating an animal control ordinance related to cats to a future work session. The motion carried 4-0.**

**DISCUSS LMCIT LOSS CONTROL RECOMMENDATIONS**

Administrator Handt reported on recommendations from the League of Minnesota Cities regarding loss control and safety issues. Handt and Maintenance Superintendent Kieffer met with a representative from the League on December 20, 2012.

Handt reviewed each of the five recommendations related to improvements to lifting devices and work positioning. Four of the recommendations will be considered in future budget preparations. Kieffer reported that kneeling pads have been purchased.

**Lee, seconded by Swanson, moved to provide a response to LMCIT that the items will be considered during budget preparations and as funds are available. The motion carried 4-0.**

**DISCUSS PAYMENT FOR LEE TO ATTEND SAFETY & LOSS CONTROL WORKSHOP**

The Council discussed Council member Lee's registration to attend a Safety and Loss Control Workshop on April 25<sup>th</sup>, sponsored by the League of Minnesota Cities. Mayor Simonson stated that the topics appear to be geared more to administrative issues and there may be future offerings that could of greater benefit to his role as Council member. It was recommended to bring all requests for training and seminars to the Council for discussion so that the budget can be wisely spent.

**Lee, seconded by Ness, moved to not approve paying for Lee's registration for the Safety and Loss Control Workshop. The motion carried 4-0.**

**UPDATE ON SAFE ROUTES TO SCHOOL EFFORTS**

Administrator Handt provided an update on the Safe Route to Schools grant opportunity. Since approval at the December 18, 2012 Council meeting to have Cathy Mackiewicz, Washington

County Department of Public Health and Environment, facilitate a community meeting, it was learned that the County cannot assist with the proposal. In addition, the Elementary School is in the process of an application to become an International Baccalaureate World School and do not have the resources to commit to a Safe Routes to School program at this time. Without the assistance from community partners, Handt recommended not to pursue the grant application at this time.

**Ness, seconded by Lee, moved to not pursue a Safe Routes to School grant at this time. The motion carried 4-0.**

#### **AUTHORIZE STAFF TO ISSUE AN RFQ/RFP FOR ENGINEERING SERVICES**

The Council discussed issuing a Request for Qualifications/Proposals for Engineering Services, as the City has not competitively bid out services for many years. It was decided to issue a Request for Proposals to selected firms with a contract period through December 2017, rather than an open-ended contract.

**Simonson, seconded by Ness, moved to issue an RFP for Engineering Services, with a contract period through December 2017.**

Council will review the proposals at the March 12 Work Session and select the top 2 or 3 firms to interview in late March. Tentatively a contract could be reviewed and approved at the April meetings.

#### **UPDATE ON PLANNING COMMISSION VACANCY**

Administrator Handt reported that no applications for the Planning Commission vacancy were received by the February 1 deadline. Staff was directed to advertise the opening for another month.

#### **PURCHASE OF PUMP FOR BLISS LIFT STATION 2**

Maintenance Superintendent Kieffer reported that a pump at Bliss lift station 2 was faulty and in need of replacement. Costs to repair the 25-year old pump were estimated to be \$3,500. A new pump was found to be just over \$5,000 in cost.

**Simonson, seconded by Swanson, moved to authorize the purchase of a Hydromatic pump for the Bliss lift station 2 at a cost of \$5,002. The motion carried 4-0.**

#### **DISCUSS CHANGING PURCHASING POLICY TO ALLOW COUNCIL MEMBERS TO MAKE PURCHASES WITHOUT STAFF AUTHORIZATION**

Council member Swanson requested a discussion about the City's Purchasing Policy. Administrator Handt explained that purchases were being made that she felt hadn't gotten staff authorization. Handt recommended that a purchase order document be utilized for future purchases, in order to more accurately track budget costs through the year.

**Lee, seconded by Ness, moved to update the Purchasing Policy to require that a purchase order document be submitted for authorization from the City Administrator. The motion carried 4-0.**

**ADJOURNMENT**

**Ness, seconded by Lee, moved to adjourn the meeting. The motion carried 4-0.**

The meeting adjourned at 11:30 p.m.

Respectfully submitted,

Brenda Eklund  
*Deputy Clerk*