

May 17, 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

There were no public comments.

APPROVAL OF THE AGENDA

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

CONSENT AGENDA

The following Consent Agenda was presented:

- a) Minutes
 - 1) April 19, 2011 Regular Meeting
 - 2) May 10, 2011 Work Session
- b) Treasurer's Report

Beginning Balance 04/01/2011	\$1,758,744.52	
Receipts	+ 75,548.52	
Expenditures	\$66,713.07	
Payroll	<u>25,938.76</u>	- <u>92,651.83</u>
Ending Balance 04/30/2011		\$1,741,641.21
- c) Payment of Vouchers
- d) Issuance of General Obligation Equipment Certificate of 2011 (*Resolution 05-17-11-01*)
- e) Accept Grant from the Minnesota Department of Health Water Protection Division

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

PLANNING COMMISSION: CONDITIONAL USE PERMIT FOR A CHIROPRACTIC HEALTHCARE BUSINESS AT 21150 OZARK AVENUE, DR. STEVEN LUGINBILL AND JAN LUGINBILL, DBA CROIX RIDGE CHIROPRACTIC, APPLICANTS (RESOLUTION NO. 05-17-11-02)

The Planning Commission held a public hearing on May 3, 2011 for the application of a Conditional Use Permit to allow for a chiropractic health care business to operate in existing office space at 21150 Ozark Avenue, within the Scandia Plaza. The Planning Commission recommended approval of the CUP with finding and conditions as recommended by the City Planner. These were incorporated into a resolution for the City Council's use.

Council member Schneider recused himself from the discussion due to a conflict of interest as a property owner of the building.

Mayor Simonson stated that the planner's report was quite thorough and there appeared to be no concerns.

Simonson, seconded by Swanson, moved to adopt Resolution No. 05-17-11-02, Conditional Use Permit for Croix Ridge Chiropractic at 21150 Ozark Avenue. The motion carried 4-0, with Schneider abstaining.

POLICE DEPARTMENT

Deputy Chris Majeski reported on the past month's police activity. There is an on-going investigation of a theft at the Berry Patch, dog violations and a recent burglary on Keystone Avenue. Deputy Majeski presented statistical data resulting from the deployment of a speed trailer in the 14900 block of Oakhill Road from April 28 to May 2. Of the 1,133 vehicles traveling westbound, 1,060 were found to be traveling above the posted speed limit of 30 mph. Deputy Majeski stated that the department will continue to conduct directed patrols within the city to educate drivers on speed reduction.

Mayor Simonson was concerned about the high number of violations, and asked for stepped up efforts to address the speeding problems.

FIRE DEPARTMENT

Fire Chief Jim Finnegan reported that the department responded to 22 calls in April, 12 which were fire related and 10 medical calls. The department recently conducted training within the state and county parks. All new recruits have passed their Firefighter I certification.

BUILDING OFFICIAL/MAINTENANCE SUPERVISOR

Building Official/Maintenance Supervisor Steve Thorp reported that two new home permits were issued in April. The Insurance Service Organization recently completed an audit of the building department. Results of the report will be available soon.

A major erosion problem was identified on Mayberry Trail above the hill from Maxwill Avenue. Plans for repairs to the culvert and ditch work are in process.

CITY ADMINISTRATOR

ZAVORAL MINING AND RECLAMATION PROJECT ENVIRONMENTAL IMPACT STATEMENT (EIS)

Administrator Anne Hurlburt presented a status report on the Zavoral Mining and Reclamation Project Environmental Impact Statement (EIS). The consultants are currently reviewing the data which Tiller Corporation submitted by the May 3 deadline. The only outstanding report involves results of a meeting regarding traffic issues. Mike Caron, Tiller Corporation, reported that a meeting with MnDOT staff has yet to be scheduled.

Assuming that the input needed from MnDOT will be received by June 15, a timeline for completion of the EIS was presented. A meeting of the Project Advisory Committee is scheduled for August 23 to review technical data and issues. The consultants anticipate that a draft EIS will be available by late October. A second meeting of the PAC will be scheduled sometime between October 24 - November 10 to review the draft. Following this schedule, the Council can then determine the public comment period to be February 6 – March 7, 2012, with a preparation of the final EIS to follow.

Administrator Hurlburt stated that the City will need to extend its agreement with AECOM to change the completion date of the project, from the current date of December 2011 to September 2012. This will ensure that the process can be completed.

Councilmember Ness questioned if the timeline could be valid if the meeting with MnDOT is further delayed. Administrator Hurlburt stated that it may take additional pressure on the agency to move ahead with the required meeting, but that the consultants are able to proceed with the study using the information that they currently have available to them.

Keiran Dwyer, attorney representing TA-COS (Take Action – Conserve our Scandia): Mr. Dwyer addressed the council with statements that the city terminate preparation of the EIS and immediately deny Tiller's Conditional Use Permit application. Mr. Dwyer cited the city's Development Code Chapter 4, Section 3.1(3), which reads that in cases where a mandatory or discretionary EAW is required, or an EIS required, those documents shall be prepared and accepted by the City before application for a CUP. He stated that the CUP application be voided due to the fact that the current zoning code (effective November 3, 2010) prohibits mining on this site. The designation has been changed to agricultural use.

Councilmember Swanson stated that she believed that the submission has been procedurally correct in its review. Tiller had completed the Environmental Assessment Worksheet in December 2008.

Greg Korstad, attorney for Tiller Corporation: Mr. Korstad approached the council with findings that support the City's continuation of the environmental review. Mr. Korstad stated that the City had made the decision to treat Tiller's application under the comprehensive plan and ordinances that were in effect at the time of Tiller's application. The length of time necessary to prepare a thorough environmental study is not uncommon in applications such as this. Mr. Korstad explained that it is a back and forth process with the consultants and that the review is moving forward.

Leslie Knapp, AECOM representative: Ms. Knapp reported that the consulting firm, AECOM, is in receipt of a majority of the study information and is confident that the timeline for completion of the EIS can be set.

City Attorney Dave Hebert advised the council on the questions brought forth concerning the legality of the process so far. Mr. Hebert stated that this is a complicated project with many

issues, but the environmental review must proceed. Tiller is relying on a decision made by the seated council at the time of the application to follow the code which was in effect at the time of submission. A review time of 2-3 years is reasonable under the law; a schedule has been set for completion of the EIS.

Mr. Dwyer responded that the City cannot ignore the language of the code, and ultimately the courts may be the final arbiter. Residents are relying on the City to enforce the laws fairly and to the letter.

Mr. Hebert countered that the code language is not as precise as it should be, but the process had started under the previous code. The environmental study is proceeding to allow the City to make an objective determination on the mining permit.

Mayor Simonson stated that he understands the concerns brought forth by the TA-COS group, but it is in the best interest of the City to continue the environmental review process and now is not the time to go in another direction. Mayor Simonson said that it is the responsibility of the City to allow the report to be finalized.

Simonson, seconded by Amos, moved to approve the timeline for completion of the EIS and to approve the amendment to the contract with AECOM to change the completion date to September 2012.

Mr. Dwyer stated that the TA-COS group intends to request that the comment period for review of the document be extended by 60 days. Administrator Hurlburt recommended that the council take up this matter at the appropriate time in the process.

Bill Clapp, 19955 Quinnell Avenue: Mr. Clapp suggested to the council that a second opinion be pursued regarding the legality of Tiller's application. Mr. Clapp stated that as a representative of the St. Croix River Association, he is relaying their support of TA-COS' position that Tiller's application be terminated.

Mayor Simonson asked for a roll call vote. Schneider – aye; Ness – aye; Swanson – aye; Amos – aye; Simonson – aye. The motion carried 5-0.

RESIGNATION AND REPLACEMENT OF OFFICE ASSISTANT

Administrator Hurlburt reported that Office Assistant Donna Thordson has submitted her resignation effective May 27, 2011. Donna has worked on a part-time basis with the city for four years. Council reviewed the tasks covered by this position and staff's recommendation of the steps necessary to hire a replacement. The position is budgeted at 12 hours per week at a pay rate of \$12.86 per hour. There are no benefits except for the employer contribution to PERA.

Simonson, seconded by Ness, moved to accept the resignation of Office Assistant Donna Thordson. The motion carried 5-0.

Schneider, seconded by Amos, moved to not fill the position of Office Assistant at this time.

Administrator Hurlburt stressed the importance of filling this position. The Office Assistant processes accounts payable, a necessary function to maintain a segregation of financial duties. Office coverage would be difficult with the small staff available. Decreasing staff results in a decreased level of service.

Councilmember Swanson stated that she would be in favor of hiring a replacement if the hours of the new hire would coincide with opening the office at 8:00 a.m. Administrator Hurlburt replied that advertising the position with required hours would not be necessary. Flexibility is needed with a small staff to cover the core hours that the office is open to the public, and that needs could be evaluated once a hire is made.

Mayor Simonson called for a roll call vote: Ness – nay; Swanson – nay; Amos – nay; Schneider – aye; Simonson – nay. The motion failed 1-4.

Swanson, seconded by Ness, moved to authorize advertising for applications for the position of Office Assistant at the pay range of \$11.16 to \$13.64 per hour. Mayor Simonson called for a roll call vote. Swanson – aye; Amos – nay; Schneider – nay; Ness – aye; Simonson – aye. The motion carried 3-2.

GAMBLING PREMISES PERMIT, CHISAGO LAKES ATHLETIC ASSOCIATION AT MI CASITA MEXICAN GRILL, CONTINUED FROM APRIL 19, 2011 (RESOLUTION NO. 05-17-11-03)

Consideration of a gambling premises permit for the Chisago Lakes Area Recreation Association (dba L.A.R.A) at Mi Casita Mexican Grill was continued from the April 19, 2011 City Council meeting. Councilmember Schneider recused himself from the discussion due to a conflict of interest as property owner of the business.

At the April meeting, there were questions concerning the Lions premises permit at the establishment. The Lions gambling manager confirmed that they have ended their gambling operation on the premises.

Tom Lawlor, L.A.R.A. Gambling Manager, presented the council with the budgets of the sports teams that L.A.R.A. sponsors. Mr. Lawlor projected that gambling proceeds in the first year would average approximately \$200 per month. Mr. Lawlor stated that the organization meets a requirement of Ordinance No. 100 that at least 15 members are residents of Scandia. Records indicate that at least 28 Scandia families participate in the athletic program.

Ness, seconded by Amos, moved to adopt Resolution No. 05-17-11-03, Approving a Lawful Gambling Premises Permit for Chisago Lakes Area Recreation Association.

City Attorney Hebert advised that the approval be contingent on Mi Casita paying the civil penalty assessed by the City Council on April 20, 2011 by the deadline required by the ordinance.

Ness, seconded by Swanson, moved to amend the motion to include a condition that Mi Casita pays the civil penalty as required by the ordinance. The motion carried 4-0, with Schneider abstaining.

A vote on the amended motion carried 4-0, with Schneider abstaining.

PRESENTATION OF 2010 AUDIT AND FINANCIAL STATEMENTS, LARSONALLEN

Craig Popenhagen and Brady Hoffman, representatives of the auditing firm LarsonAllen, presented a summary of 2010 audit report. The city received a clean opinion on the financial statements. They reported that the city has healthy fund balances and has been proactive in monitoring the finances.

Mr. Popenhagen explained the new accounting standards that will go into effect next year. Fund balances will be reported by various classifications to distinguish between fund balance amounts that are considered non-spendable, and other amounts that are classified based on the relative ability to be spent.

AUTHORIZE SALE OF SURPLUS EQUIPMENT

1995 GMC PICKUP TRUCK WITH PLOW

Simonson, seconded by Schneider, moved to approve the sale of the 1995 GMC 2500 Sierra Pickup Truck with plow using eBay Motors. The motion carried 5-0.

TIGER BOOM MOWER

Simonson, seconded by Amos, moved to approve the sale of the 2005 Diamond Rear Flail Mower using eBay. The motion carried 5-0.

ADJOURNMENT

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

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk