

October 16, 2018

A regular meeting of the Scandia City Council was held on the above date. Mayor Christine Maefsky called the meeting to order at 7:00 p.m. Following the Pledge of Allegiance, roll call was taken. The following members were present: Council members Bob Hegland, Steve Kronmiller, Chris Ness, Jim Schneider and Mayor Christine Maefsky. Staff present: City Administrator Neil Soltis, City Planner Sherri Buss, City Planner Merritt Clapp-Smith, City Engineer Ryan Goodman, City Attorney Eric Sherburne, Police Deputy Brandon Yetter, Fire Chief Mike Hinz, Public Works Director Adam Hawkinson and Deputy Clerk Brenda Eklund.

PUBLIC FORUM

Certificate of Appreciation to Retiring Firefighter Ron Hawkinson

Mayor Maefsky presented a Certificate of Appreciation to retiring firefighter Ron Hawkinson. Hawkinson served on the department more than 30 years, and was leader of the fire prevention program.

Donation from Scandia-Marine Lions Club for Holiday Lighting

Lynnette Welsch and Bruce Swenson, representing the Scandia-Marine Lions Club, presented a check to the City in the amount of \$2,892.50 to cover the cost of installing decorative lighting on the exterior of the Community Center and Warming House for the holiday season. A resolution accepting the donation was Item 5.e) of the Consent Agenda.

APPROVAL OF AGENDA

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

CONSENT AGENDA

The following Consent Agenda was presented:

- a) Minutes
 - 1) September 18, 2018 Regular Meeting
 - 2) October 3, 2018 Work Session
- b) Treasurer's Report

Beginning Balance 9/1/2018	\$6,089,847.50
Receipts	\$83,627.27
Expenditures \$1,580,554.56	
Payroll <u>\$24,802.43</u>	\$(1,605,356.99)
Adjustments: record CD interest	<u>\$5,413.79</u>
Ending Balance 9/30/2018	\$4,573,531.57
- c) Payment of Vouchers
- d) 2018 Road Improvement project – Contractor's request for payment #5
- e) Resolution 10-16-18-01 Accepting donation from Scandia Marine Lions, approving contracting for decorating lighting, and amending the General Fund Community Building 2018 budget
- f) Resolution 10-16-18-02 Amending the Capital Improvement Fund 2018 budget to provide funds for purchase of SCBA compressor
- g) Resolution 10-16-18-03 Supporting the Washington County All Hazards Mitigation Plan

- h) Resolution 10-16-18-04 Modifying the Compensation Policy Pay Rate Exhibit A
- i) Approving the 2017 Pay Equity Report
- j) Resolution 10-16-18-05 Amending the Fund Balance Policy
- k) Resolution 10-16-18-06 Adopting an Investment Policy
- l) Annual review –Brenda Eklund
- m) Annual review – Judi Negus
- n) Retirement of Firefighter Ron Hawkinson
- o) Winter Skating Programs
 - 1) Agreement with Kathryn Herman for Learn to Skate program
 - 2) Seasonal Ice Rink Staffing
- p) Hiring part-time plow drivers

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

PUBLIC HEARING: LIQUOR LICENSE VIOLATION AT SCANDIA OLDE TOWNE LIQUOR (RESOLUTION NO. 10-16-18-07)

Adrian Franssen, owner of Scandia Olde Towne Liquor, was present for a public hearing to address the ordinance violation of selling alcohol to an underage buyer that occurred on July 19, 2018 during a compliance check by the Washington County Sheriff's Office. Franssen plead guilty to a misdemeanor charge to providing alcohol to a minor as a first-time offense. The City's ordinance requires a public hearing to consider a penalty for the violation. Administrator Soltis explained that the ordinance states a minimum civil penalty of \$500 must be imposed in addition to a one-day suspension of business for a first violation.

Mr. Franssen stated that this is his first violation in 52 years of checking id's. Council member Schneider asked for the minimum penalty. Council member Kronmiller agreed, saying Franssen has run a good business for many years. Council member Ness asked if the fine could be lessened. Attorney Sherburne noted that the ordinance language states the minimum penalty of \$500.

Schneider, seconded by Hegland, moved to adopt Resolution No. 10-6-18-07, Imposing License Suspension and Civil Penalties on Scandia Olde Towne Liquors for Liquor License Violations, with the suspension date of January 7, 2019 and a civil penalty of \$500 to be paid within 30 days. The motion carried 5-0.

PARK AND RECREATION COMMITTEE

Recommendation on Bench Standards

Dan Lee, member of the Park and Recreation Committee, described the bench policy the Committee is recommending for approval. The standards will provide for consistency and guidelines for future donations or purchases of benches within the parks and urban areas in Scandia. **Kronmiller, seconded by Hegland, moved to approve the Bench Standard Guidelines as recommended by the PRC. The motion carried 5-0.**

Mayor Maefsky asked if there had been discussion at the last PRC meeting on a provision for financial assistance to registrants of the winter skate programs. Lee responded they had not, but

it is a good point to consider. It was recommended to discuss this at the November Council work session.

PLANNING COMMISSION

After-the-Fact Variance from Wetland Setback at Langly Avenue. Joseph and Katherine Reinhardt, Applicants (Resolution No. 10-18-16-08)

Planner Buss reported on the Planning Commission's recommendation to deny an after-the-fact variance request for a secondary driveway that was installed on property owned by Joseph and Katherine Reinhardt, 18884 Layton Avenue. Buss explained that the driveway was constructed in 2017 through a protected wetland without appropriate permits or approval. The violation of the MN Wetland Conservation Act allowed for the Technical Evaluation Panel to review mitigation efforts; the TEP recommended denial in early 2018. WCA rules allowed the applicants to seek an after-the-fact variance with their rationale that the driveway is the only access from the roadway to their individual back lots, and is needed for access to their septic system.

The Planning Commission determined that the request did not meet the criteria for a variance and is not in harmony with the Comprehensive Plan for the protection of water resources, and that a secondary driveway is not needed because adequate area exists from the primary driveway to provide access to the rear area of the property. Buss said that the Engineer's comments concluded that the 22' opening between the home and the southern parcel with a less than 10% grade provides a potential access once trees are removed. As well, the exterior storage ordinance allows for an exception to store vehicles in the front yard and that the primary driveway is wide enough for this.

Mr. Reinhardt said that there is an elevation here from the septic area, and that a large trailer could not be maneuvered through this narrow opening; the trees shade the house and he would be opposed to removing them.

Council member Kronmiller described the sequencing process allowed under WCA rules as he understood them to be, that the Reinhardts' should demonstrate if another avenue exists. Buss said the conclusion is the same – that they have a viable option that does not impact a wetland. Kronmiller said that it was an oversight for them to fill the wetland, but there is a process they are pursuing. Council member Hegland agreed, and said the Reinhardt's returned with a survey and have shown that the alternative access recommended by staff is unacceptable. Removing trees destroys the property; filling a small wetland provides the access they need.

Council member Ness described the neighbor's comments given at the Planning Commission that there have been drainage issues since the wetland was filled which are negatively impacting the neighboring property and house. Mr. Reinhardt said there is a properly installed culvert and that the drainage issues were not created by his driveway but have existed on the block for decades, as shown on photos from the 1990's that he provided to the Council. Reinhardt showed an aerial view of the property when he purchased it in 2014 and said it did not show a protected wetland. He went on to say the proposed access along his house is absolutely not practical for the large trailer, pontoon and boat lift he stores, and that installing an access here would direct water towards his house. He was told when he purchased the seven individual lots that he could

have an access off Langly and one storage building on the back lot. He said he has secured the wetland bank mitigation credits at a 3:1 ratio. Reinhardt said that there are practical difficulties unique to the property to rationalize his variance request.

Planning Commissioner Travis Loeffler addressed the Council. Loeffler said the Commissioners were unanimous in voting to deny the variance at the end of a long and thought-provoking discussion. They were told to consider the individual lots as one property at which only one driveway access is allowed, and that alternative storage exists on the primary driveway. He said access to the back property along the house is possible, although not preferred as he would have a difficult time backing in a truck and trailer through the opening. Loeffler also noted that the DNR recommended the variance for the wetland setback be denied, which strongly influenced their vote.

Council member Kronmiller said that making the whole front yard a parking area is not a good situation for the neighborhood, and they need access to the back of the property. Mayor Maefsky asked if he sees the wetland as an issue. Kronmiller replied that at the January appeals meeting they had talked about a process for the Reinhardts, and they have done so by securing wetland credits; he doesn't see a reasonable alternative for access and it should be allowed to stay. Kronmiller said he doesn't like that a wetland was filled, but they are following the process provided by the WCA rules to allow the driveway to stay. Council member Hegland said there is insufficient space for an alternative access; the Planning Commission's recommendation is inadvisable, and they are following a rational basis to allow the driveway to remain.

Council member Schneider asked about the condition to require the individual lots be combined into one. Attorney Sherburne explained that each lot is non-conforming, and contiguous parcels under the same ownership may not be sold separately. The Reinhardts have said that the County will pass papers for each lot. Sherburne said the County maintains an index of parcels, such that they can be transferred, but the municipality governs what can be done with the property and the ordinance states that they cannot be sold or developed separately. The County cannot police this and landowners are not permitted to do so. The former property owner was approved for variances in 2002 and 2006 with conditions to combine the 5 lots, but did not follow through. Sherburne noted that combining torrens property such as these requires a court proceeding, a more lengthy and costly process as compared to merging abstract property. He recommended to allow a deadline of one year to complete this condition.

Mr. Reinhardt said this condition is a taking of property and he would oppose combining the lots. Council discussed that it has been a requirement of past approvals to get properties into conformance. Separate lots are confusing to people and this is an opportunity to remove that confusion. Council member Schneider said he's willing to allow the driveway, but he wouldn't want to see this come back with a request for a house to be built on the small back lot.

Mayor Maefsky noted the resistance and asked how the Reinhardt's could be held accountable to combine the 5 individual lots. Maefsky said that they were sold the property with a misunderstanding of past history. Planner Buss said they can enforce the condition by approving a driveway and grading permit once the lot combination has been completed. Buss also noted that the Carnelian-Marine Watershed District commented that if the wetland fill is allowed to

remain it will trigger a Watershed requirement for additional mitigation to be paid into the District's wetland replacement fund. Buss concluded that a resolution could be prepared to allow the driveway to stay with these conditions; if the Reinhardt's really want to keep the driveway they must meet the conditions, otherwise follow the DNR order to restore the wetland.

Katie Reinhardt countered saying they were told by the previous administrator that a driveway and storage building were allowed on the separate lots, and combining the properties presents a unique situation that would result in their property being much larger than the surrounding small lots.

Tyler Kulski, 10966 185th Street, said that if they combine all of their lots they will have 3 driveways on one property because there are two separate lots across Layton Avenue that has an access as well. Attorney Sherburne clarified that the Reinhardt's own a total of 7 individual lots, but it's the 5 contiguous properties that must be combined and should be clearly stated in the condition. Administrator Soltis explained that this was the requirement of the past approved variances.

Kronmiller, seconded by Hegland, moved to adopt a resolution to approve an after-the-fact variance for a driveway within a wetland setback constructed at 18884 Layton Avenue with conditions to 1) combine the 5 contiguous lots into a single tax parcel through a court process for torrens property within a year; 2) be approved for driveway and grading permits; 3) complete the Carnelian-Marine Watershed District permit requirements. Council member Ness said the first step for the applicants was to get a driveway permit – they wouldn't be here if they had followed this step from the start. The motion carried 4-1, with Ness opposed.

Variance at 13090 182nd Street. Grant and Christine Erickson, Applicants. (Resolution No. 10-16-18-09)

Planner Clapp-Smith presented the Planning Commission's recommendation to approve variances for constructing a replacement septic system within 5' of the side lot line and to relocate an existing garage within 10' of the side lot line at 13090 182nd Street. Clapp-Smith explained that the new area for the septic mound provides the best soils and will be further from the roadway than the existing mound. The garage has had water issues in its current location. Moving it to a higher elevation on the property will allow the existing driveway to be reused and removal of an existing shed, resulting in reduced impervious surface coverage.

Ness, seconded by Hegland, moved to adopt Resolution No. 10-16-18-09, Approving Variances for 13090 182nd Street as presented. The motion carried 5-0.

Variance at 12150 Lakamaga Trail. Peter and Colleen Nora, Applicants. (Resolution No. 10-16-18-10)

Planner Clapp-Smith presented the Planning Commission's recommendation to approve a variance to construct a home addition with attached garage within 9' from the side lot line at 12150 Lakamaga Trail. The unique characteristics of the property create difficulties in locating the addition on the other side of the home. Because the number and square footage of accessory

structures on the property exceeded the allowed standard, a condition was included to remove the hoop shed structure to bring the property closer to conformance with the ordinance.

Council member Schneider asked if the addition would cause issues with drainage. Engineer Goodman recommended gutters on the addition, and said he would need to see a grading plan to verify proper water flow.

Ness, seconded by Hegland, moved to adopt Resolution No. 10-16-18-10, Approving a Variance for 12150 Lakamaga Trail. The motion carried 5-0.

Ordinance No. 199 – Amending Development Code Chapter 3, Section 4.15 Regarding Livestock and Livestock Operations and Section 3.2 Regarding Accessory Structures

Planner Buss presented the Planning Commission’s recommendation to approve amendments to the livestock ordinance for keeping poultry on properties smaller than 5 acres. The setbacks for the coops are based on the number of chickens on the property.

Kronmiller, seconded by Ness, moved to adopt Ordinance No. 199, Amending the Development Code, Chapter 2, Section 4.15 Regarding Livestock and Livestock Operations and Section 3.2 Regarding Accessory Structures, as presented. The motion carried 5-0.

Summary Publication of Ordinance No. 199 (Resolution No. 10-16-18-11)

Kronmiller, seconded by Hegland, moved to adopt Resolution No. 10-16-18-11, Providing for Summary Publication of Ordinance No. 199. The motion carried 5-0.

Ordinance No. 201 – Amending Development Code Chapter 4, Section 4.24 Regulating Swimming Pools

Planner Buss presented the Planning Commission’s recommendation to approve amendments to the performance standard for swimming pool covers that meet ASTM standards and are installed in accordance with the manufacturer’s recommendations. Buss said this change to the existing language results in a more objective and professional standard.

Ness, seconded by Hegland, moved to adopt Ordinance No. 201, Amending the Development Code, Chapter 4, Section 4.24 Regulating Swimming Pools, as presented. The motion carried 5-0.

Summary Publication of Ordinance No. 201 (Resolution No. 10-16-18-12)

Ness, seconded by Kronmiller, moved to adopt Resolution No. 10-16-18-12, Providing for Summary Publication of Ordinance No. 201. The motion carried 5-0.

BUILDING OFFICIAL

Building Official Chuck Preisler’s report on building activity was received. In September, 51 permits were issued at a valuation of \$2,622,771. Twelve new construction permits have been issued this year. Administrator Soltis noted that building permit revenue is on pace with last year’s total.

POLICE DEPARTMENT

Police Deputy Brandon Yetter reported on a burglary at the Big Marine Lake Store which smashed out the front doors and stole the cigarette inventory. The suspects were identified with a string of similar burglaries in the St. Paul area. Yetter reported on the speed study he is conducting within the 50-mph speed zone on Highway 97 in front of the elementary school. Speeds have averaged 46-48 mph in his first round, and he will continue to record speeds in the morning hours. Council member Kronmiller said he has heard complaints about excessive traffic noise – Yetter said he can issue citations under Ordinance No. 85.

FIRE DEPARTMENT

Fire Chief Mike Hinz reported that the department responded to 3 fire calls and 17 medical calls in September. The department was called to provide mutual aid to Forest Lake today for a garage fire. The department is switching cell phone providers to FirstNet, a more reliable service for emergency responders.

CITY ENGINEER

City Engineer Ryan Goodman provided a written report on engineering updates. A retainage is being held for the street improvement project until the contractor completes the final items on the punch list.

CITY ATTORNEY

City Attorney Eric Sherburne reported that the FCC has amended its rules for small cell wireless regulations that will require the city's ordinance to be updated. Staff is working on the revisions to the right-of-way ordinance to be in compliance with these amendments that address deadlines, fees, and requirements for aesthetics.

PUBLIC WORKS DIRECTOR

Public Works Director Adam Hawkinson reported on the past month's activities. The shouldering equipment was repaired by local business Am-Tec. Issues with the 201 sewer system were addressed and it's working smoothly now. There was significant infiltration of groundwater to the system following heavy rains a few weeks ago.

CITY ADMINISTRATOR

City Administrator Soltis reported that he attended an inspection of the Argo Navis solar garden site to assess the stormwater overflow that occurred on September 27th. A remediation order has not yet been issued; the TEP plans to meet next week to determine the wetland impacts. The DNR provided maps showing the path and depths of the sand washout to the river. Soltis provided charts showing the large impacts of inflow and infiltration to the Bliss and Anderson/Erickson systems, while the Uptown Sewer system remained steady following heavy rains last month.

PROPOSAL FOR ENGINEERING SERVICES FOR DESIGN OF THE 1-MILE SEGMENT OF THE GATEWAY TRAIL

As discussed last month, the City entered into an agreement with the DNR for funding the design of the segment of the Gateway Trail from the tunnel at Oakhill Road to the trailhead at the old fire station (the Annex). The DNR has funding up to \$100,000 for this work.

Engineer Goodman presented a proposal from Bolton & Menk for engineering services to prepare the plans and specifications to ready the project for bidding and construction when DNR funding for construction becomes available. The design would be completed by April 2019 at a cost of \$81,700. Small group property owner meetings and a public open house will be part of the tasks.

Council member Kronmiller said he understood that this is an opportunity to complete this segment, and is confident that the final parts of the trail will be completed so that this isn't a "trail to nowhere". Mayor Maefsky said that this trail segment will have significant use until then.

DISCUSSION ON SUPPORT FOR THE FOREST LAKE SCHOOLS OPERATING REFERENDUM

As discussed at the October 3rd Work Session, Mayor Maefsky introduced a resolution urging voters to learn about the Forest Lake School District's operating levy referendum on the November 6th ballot and to inform themselves about the issues. Council member Hegland said that the Council needs to stay away from advocating for political issues. Council member Schneider agreed that the Council should not be a platform for issues like this. Council member Kronmiller said that showing support will help the community have a strong school and retain families living here.

Maefsky explained that the resolution language only urges residents to research the issue and to vote. Hegland said he could stand behind that.

Hegland, seconded by Kronmiller, moved to adopt a resolution for the FL Area Schools Operating Levy Referendum. The motion carried 5-0.

PUBLIC FORUM

Maria Hinz, 13000 182nd Street, said that she disagreed with the approval of an Administrative Permit for a temporary dwelling unit at the Goodyear property because the area of the lot above the Ordinary High-Water level of Goose Lake is less than 5 acres, and she felt that area under water should not be counted as acreage. Administrator Soltis explained that approval is governed by ordinance definitions of "lot" and "lot area". Staff noted that language could be proposed to insert "area above the OHWL" to ordinances that allow rights based on lot size, for further discussion at a future work session.

ADJOURNMENT

Kronmiller, seconded by Hegland, moved to adjourn the meeting. The motion carried 5-0.

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk