

March 19, 2019

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 Jerry Cusick, Steve Kronmiller, Chris Ness, Patti Ray and Mayor Christine Maefsky. Staff present: City Administrator Neil Soltis, 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**

Jim Maher, Chair of the Marine Community Library, was present to provide an update on the library's activity. New audio/visual equipment was purchased for presentations in the Marine Village Hall, youth and adult programming remains popular with a weekly children's reading program and upcoming summer programming, speaker events, the documentary series, and monthly family game nights. Maher said he appreciated the support of Scandia residents and invited the community to participate in the library events. Mayor Maefsky added that the City's website now has a community calendar on which the library's events can be found.

### **APPROVAL OF AGENDA**

Public Works Director Hawkinson requested the discussion of dust control be added to the agenda. Mayor Maefsky said that this could be Agenda Item 9.f).

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

### **CONSENT AGENDA**

The following Consent Agenda was presented:

- a) Minutes
  - 1) February 19, 2019 Regular Meeting
  - 2) March 6, 2019 Work Session
- b) Treasurer's Report

Beginning Balance 2/1/2019	\$4,246,868.11
Receipts	\$ 204,176.60
Expenditures \$187,908.96	
Payroll <u>\$28,699.23</u>	<u>\$(216,608.19)</u>
Ending Balance 2/28/2019	\$4,234,436.52
- c) Payment of Vouchers
- d) Application for Excluded Raffle Permit, Scandia Elementary PTO (April 12, 2019)
- e) Confirming the Parks & Recreation Committee Chair and Vice-Chair
- f) Resolution 03-19-19-01 Accepting donation from the Scandia Veterans Memorial Committee
- g) Washington County Historical Society Temporary On-Sale Liquor License (June 15, 2019)

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

### **PARK AND RECREATION COMMITTEE**

#### ***Summer Recreation Program***

Parks and Recreation Chair Terry Gorham described the Art in Action summer art camp being offered through St. Croix Festival Theatre this August 12-16 for youth ages 7-13, approved by the Parks Committee. This will be the only summer recreation program offered. Camp Lakamaga day camps and tennis instruction will not be held due to low participation over the past few summers.

Gorham reported that the results of the recreation program interest survey will be summarized at a future meeting.

**Kronmiller, seconded by Ray, moved to approve the Art in Action summer arts camp to be held at the Community Center. The motion carried 5-0.**

#### ***Volunteer Agreement with Friends of Scandia Parks for Maintenance of the Butterfly Garden at Lilleskogen Park***

Gorham described the agreement worked out with Friends of Scandia Parks and Trails (FSPT), city staff and the PRC to identify and clarify the responsibilities of each party relating to the maintenance of the butterfly garden at the east end of the parking lot in Lilleskogen Park. The City will mow or cut dead vegetation in the spring, and watering in dry periods if resources allow. The FSPT will undertake the majority of the maintenance such as weeding, replanting and general upkeep.

**Ray, seconded by Ness, moved to approve the Volunteer Agreement with Friends of Scandia Parks and Trails. The motion carried 5-0.**

### **PLANNING COMMISSION**

#### ***Variance at 11245 218<sup>th</sup> Street. Brent Jensen, Applicant (Resolution No. 03-19-19-02)***

Planner Clapp-Smith presented the recommendation from the Planning Commission to approve variances from a wetland setback and from the Ordinary High-Water Level of German Lake for installation of a driveway at 11245 218<sup>th</sup> Street, with a condition that the alignment comply with the recommendations of the watershed district and approval of the City Engineer. Clapp-Smith summarized Brent Jensen's request to install a permanent driveway to a future building site on the 19.1-acre lot, at a location approximately 145 feet from German Lake (200-feet required) and 10-feet from a Manage 1 wetland (75-feet required). The Planning Commission discussed an alternative access at the northwest corner of the property, but existing wetlands here would require some filling of the wetland. The Commissioners concluded that filling part of a wetland is considered to be a greater environmental impact than the proposed driveway location with a wetland setback.

Clapp-Smith explained the Carnelian-Marine Watershed District's conditional approval with a recommendation to shift the driveway eastward to protect the wetland, at a distance of ½ the buffer width (37.5 feet) while still remaining on the topographic saddle, described as balancing

the benefits of wetland and lake buffers. Clapp-Smith explained that the language of condition #1 of the resolution to approve the variances provides for the City Engineer and Watershed District to work closely to minimize impacts.

John Lindell, 11240 218<sup>th</sup> Street, spoke at the public hearing and addressed the Council. He said that he is opposed to the variance for multiple reasons – it's a ridiculous proposal, it will pollute German Lake, and staff made a bad recommendation with inaccurate information. The site visit was done with deep snow cover and had no markings for the driveway. An alternative should have been addressed, such as on the west edge of the property or to share a driveway with the west property owner, to be as far as possible from the lake. Mr. Lindell said the DNR noted that the survey is inaccurate and incomplete, and questioned why a driveway would be approved before a future home site that may need a variance from lake setbacks. He warned that the applicant owns a construction company and will have large equipment operating on the property, resulting in noise and diesel fumes which will impact him. Mr. Lindell asked the Council to deny the variance request.

Council member Ray asked what the driveway material will be. Mr. Jensen stated it will be gravel initially, then paving in the future. Council member Ness asked if the applicant plans to build a house in the future. Mr. Jensen said that is their intention.

Council member Kronmiller said he shares some of Mr. Lindell's concerns on the driveway placement in proximity to the wetland and lake. He said he would like a better understanding of the soil and water conditions in the absence of snow cover, and the placement of the driveway between the two water bodies. Administrator Soltis explained that a wetland delineation last fall established the wetland boundary as shown and was verified by the TEP panel in the field. Placement of the culvert is at the narrowest point where the outlet runs to the lake.

Mayor Maefsky said that driveways can be allowed without a building on the property, and the ordinance allows driveways and homes in the shoreland. The alternative access would be more damaging with filling part of a wetland, and putting an access on the adjoining property is not feasible because joint driveways are not allowed. Maefsky said the critical part will be close supervision between the Watershed and City Engineer to find an alignment that works with the flow and protection of the water.

Council member Kronmiller asked what is the process for all agencies to work together for the buildout of the driveway. Administrator Soltis explained that the applicant will proceed with a land alteration and grading permit review with Engineer Goodman, and the Watershed's engineers will contribute to the process to minimize impacts of the driveway, during construction as well.

**Cusick, seconded by Ray, moved to adopt Resolution No. 03-19-19-02, Approving Variances for 11245 218<sup>th</sup> Street.**

**Council member Ness recommended an amendment to Condition #1 to state that the driveway alignment be set back 37.5 feet from the wetland, to conform with the**

**Watershed's recommendation. Cusick and Ray approved this amendment to their motion. The amended motion carried 5-0.**

### **BUILDING OFFICIAL**

Building Official Chuck Preisler's report on building activity was received. In February, ten permits were issued at a valuation of \$122,351.

### **POLICE DEPARTMENT**

Police Deputy Brandon Yetter was called away on a medical call, and returned later in the meeting. The February citation and incident reports were in the meeting packet.

### **FIRE DEPARTMENT**

Fire Chief Mike Hinz reported that the department responded to 4 fire calls and 7 medical calls in February. Hinz also reported that the department assisted with a Forest Lake fire last evening which started in a garage. Lamps for the LED upgrade at the Fire Station/Public Works building have been ordered.

### **CITY ENGINEER**

City Engineer Ryan Goodman provided a report on engineering updates. The public open house on the Gateway Trail extension was well attended. Goodman said he is tracking transportation bills in this legislative session, and told council members they should communicate with bill authors and representatives on the importance of allowing cities to withhold a retainage through completion of city construction projects to ensure compliance with contract obligations.

### **PUBLIC WORKS DIRECTOR**

Public Works Director Adam Hawkinson reported on efforts to protect properties in the Bliss due to the last week's melting snowpack, rain and frozen ground. Many thousands of gallons were pumped from sewer tanks and a ponded area over many hours, because the lift stations couldn't keep up with the inflow. Hawkinson explained that a property owner pushed snow over an outlet to the lake, resulting in its blockage and backed up water. Council discussed a process for seeking an avenue of recovery of monetary losses due to this illegal deposit of snow. Staff was directed to file a report with the sheriff's department for criminal activity, and Attorney Sherburne will investigate a potential civil claim.

### **CITY ADMINISTRATOR**

City Administrator Soltis reported that one quote was received for audio improvements in the Council chambers, with one more vendor proposal being prepared for discussion at a future meeting. Comments on the Comprehensive Plan were just received from the Met Council. Soltis explained the emergency erosion control actions taken last week by BHE Renewables at the Zavoral solar site to contain water runoff due to the melting snowpack. Soltis provided the County's assessment data, which shows a 10.9% increase in assessed value of taxable properties in Scandia.

**TILLER CORPORATION ANNUAL OPERATING PERMIT FOR THE SCANDIA MINE (RESOLUTION NO. 03-19-19-03)**

Review of the Annual Operating Permit for Tiller's Scandia Mine was continued from the February 19<sup>th</sup> Council meeting. Planner Clapp-Smith reported that the mine is operating in compliance with the conditional use permits, groundwater reports are good with no diesel range organics detected, some excavation into the groundwater may occur this year, and reclamation plans are proceeding in the southern portion of the site. Complaints on operations and screening have been addressed. No noise violations occurred, and a reasonable level of screening with berming and vegetation is in place along 218<sup>th</sup> Street to minimize pit visibility. As well, Tiller responded to the complaints in a letter included in the meeting packet.

John Lindell, 11240 218<sup>th</sup> Street, said that Tiller is excavating up to the property boundaries, impacting wildlife habitat and scenic views. He asked that Tiller be required to increase the berming along 218<sup>th</sup> Street, to close the access road on 218<sup>th</sup> Street, and to prohibit excavation into the groundwater because of the potential for contamination.

Council member Ray asked that the chemical spill reported in 2017 be explained. Christina Morrison, Tiller Land Use and Permitting Coordinator, noted the detailed response provided in the meeting packet, and also explained the incident in which approximately 20 gallons of diesel fuel was released from a generator's fuel tank caused by a leak in a loose hose while it was on a trailer, with some spillage onto the pavement below. The spill was cleaned according to regulations and reported to the MN State Duty Officer with the Pollution Control Agency.

Morrison also explained that the 218<sup>th</sup> Street access road is an important traffic route into the site, and accommodates incoming reclamation materials. It allows for a circular traffic pattern for safe and efficient haul routes.

Council member Ness said that he observed adequate screening along 218<sup>th</sup> Street. Council member Kronmiller said that Tiller has been approved for mining into the groundwater and is permitted to do so.

**Kronmiller, seconded by Ness, moved to adopt Resolution No. 03-19-19-03, Approving the 2019 Annual Operating Permit for the Sand and Gravel Mine and Processing Facility at the Scandia Mine Site as presented. The motion carried 5-0.**

**REQUEST TO EXTEND DEADLINE FOR FILING AN APPEAL TO THE TEP PANEL DECISION REGARDING WETLAND AT 18884 LAYTON AVENUE, REINHARDT**

In October 2018 the Council approved an after-the-fact Variance for a driveway that was constructed through a wetland as an access to the rear of Joe and Katie Reinhardt's property at 18884 Layton Avenue, subject to the requirement that the five non-conforming lots be combined into a single tax parcel no later than December 31, 2018. This lot combination did not occur. The Reinhardt's have applied for a Wetland Conservation Act permit that would allow for fill of the wetland, but the TEP panel recommended denial since their plans are not consistent with the City's land use and zoning, for failure to meet the condition of the variance. Administrator Soltis explained that an appeal of this decision may be made to the Board of Adjustment and Appeals (the Council) within 30 days of the denial notice.

A request from Joe and Katie Reinhardt was received on March 13<sup>th</sup> asking for a 60-day extension of their driveway appeal deadline. Staff recommended upholding the TEP decision and to deny the request to extend the appeal period. Attorney Sherburne explained that in the appeals process, the City really does not have the authority to extend a deadline and could set a precedence for any future cases.

Council member Kronmiller said the Reinhardt's, by not combining the properties, are doing themselves a disservice by making this harder than it needs to be. There is no provision for extending a deadline and it is in their court to resolve. Administrator Soltis explained that if they do combine the lots and show good faith effort, they could request the City modify the variance with a new date, and continue the WCA permit process.

Council member Cusick asked what measures could be taken to deny their use of the driveway. Soltis noted that the DNR's restoration order could be enforced, or civil action taken to require the driveway be removed. As well, they could appeal the WCA decision to the Bureau of Water and Soil Resources.

**Kronmiller, seconded by Cusick, moved to deny the Reinhardt's request to extend the appeals deadline. The motion carried 5-0.**

### **SPRING NEWSLETTER**

Council reviewed a draft of the spring newsletter, being mailed to all Scandia households around April 1<sup>st</sup>. No changes were advised. Staff will send the copy to the printers for mailing by the end of March.

### **CAPITAL IMPROVEMENT COMMITTEE APPOINTMENTS**

Two applications were received by the extended deadline for the Capital Improvement Plan Committee:

- Mark Lofstrom
- Jamie Reich

No applications to the Wastewater Advisory Committee/Anderson-Erickson representative have been received and the advertising is being kept open.

**Ray, seconded by Ness, moved to appoint Mark Lofstrom and Jamie Reich to the Capital Improvement Plan Committee. The motion carried 5-0.**

Administrator Soltis announced that the CIP Committee meeting will begin meeting in April.

### **WASHINGTON COUNTY COMMUNITY DEVELOPMENT AGENCY PREDEVELOPMENT FINANCE FUND (RESOLUTION NO. 03-19-19-04)**

EDA member Kronmiller described the EDA's proposal to evaluate the feasibility of a community water system within the City that meets the objectives of the County's CDA Predevelopment Finance Fund. An area behind the Fire Station was earlier studied for community sewer, and this study would partner with that to provide information to facilitate the development of this property. Bolton & Menk proposed a cost of \$9,700 for a community water study. The County CDA would fund 90% of this cost through their program.

**Kronmiller, seconded by Ray, moved to adopt Resolution No. 03-19-19-04, Authorizing Submittal of an Application for Funding from the Washington County CDA Predevelopment Finance Fund. The motion carried 5-0.**

**AWARD OF 2019 DUST CONTROL PROJECT**

Public Works Director Hawkinson reported on two bids received for application of this year's dust control to the City's gravel roads. Northern Salt provided the low quote of \$0.95 per gallon for a base price of \$15,677.85 for the first application and \$7,839.40 for a second application. Included in this is application to a private roadway in Cedar Cliff that is reimbursed to the City. The budget allows for up to \$25,000 in dust control this year.

Mayor Maefsky asked if more frequent application could be done as needed in front of a residence on 185<sup>th</sup> Street, as they have health problems related to the dusty conditions. Hawkinson said that he can coordinate this with the contractor if more applications are needed.

**Kronmiller, seconded by Ray, moved to approve staff recommendations for 2019 dust control. Council member Ness asked for a friendly amendment to add "not to exceed \$25,000". The motion as amended carried 5-0.**

**ADJOURNMENT**

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

The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Brenda Eklund  
Deputy Clerk