CITY OF LAKE ELMO
CITY COUNCIL MINUTES
AUGUST 16, 2016

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Pearson called the meeting to order at 7:00 pm.

PRESENT: Mayor Mike Pearson and Councilmembers Julie Fliflet, Anne Smith, Justin Bloyer, and Jill Lundgren.

Staff present: Administrator Handt, City Attorney Sonsalla, City Engineer Griffin, Finance Director Bendel, Planning Director Wensman, and City Clerk Johnson.

APPROVAL OF AGENDA

City Council Reports were removed from the Agenda.

Councilmember Lundgren, seconded by Mayor Pearson, moved TO APPROVE THE AGENDA AS AMENDED. MOTION PASSED 5 – 0.

ACCEPT MINUTES

A clarification was added to the Approval of the Agenda to reflect that an item was removed from the Consent Agenda. Minutes of the August 2, 2016 Regular Meeting were accepted by unanimous consent as amended.

PUBLIC COMMENTS/INQUIRIES

Nadine Obermueller, 8696 42nd Street North, commented on growing layers of government and cautioned against too much government growth.

Virginia Pleban, 8245 59th Street North, spoke about communication and encouraged listening with an open mind.

PRESENTATIONS

Promotion of Two Probationary Firefighters

Councilmember Fliflet, seconded by Councilmember Bloyer, moved TO APPROVE THE PROMOTION OF JEREMY PENMAN AND BRANDAN PELTIER FROM PROBATIONARY STATUS TO FIREFIGHTER WITH BACK PAY TO ELIGIBILITY DATE. **Motion passed 5 – 0.**

Fire Chief Malmquist conducted the swearing in of Firefighters Jeremy Penman and Brandan Peltier.

CONSENT AGENDA

3. **Approve Payment of Disbursements**
4. **Accept July 2016 Financial Statements**
5. **Accept July 2016 Assessor's Report**
6. **Accept July 2016 Building Department Report**
7. **Accept July Fire Chief's Report**
8. **Accept July Public Works Department Report**
9. **Approve Special Assessment Abatement Requested by Washington County –** ***Resolution 2016-66***

10. **Approve 2016 Seal Coat Project – Pay Request No. 1**
11. **Approve 2016 Street, Drainage and Utility Improvements – Pay Request No. 3**
12. **Approve Inwood Trunk Watermain Improvements – Pay Request No. 4.**
13. **Approve Inwood Booster Station – Pay Request No. 3**
14. **Approve Inwood Booster Station – Change Order No. 1**
15. **Approve Inwood Water Tower (No. 4) – Pay Request No. 3**

Consent Agenda approved by unanimous consent.

ITEM 16: Dan Greensweig, LMCIT Assistant Administrator

Mr. Greensweig reported that the City's insurance coverage is up for renewal and will be reviewed by the LMCIT Board of Directors. Greensweig outlined reasons for concern over the risk level and stated LMCIT staff is considering recommending a higher deductible.

ITEM 17: CSAH 13 (Ideal Avenue/Olson Lake Trail) – Approve Feasibility Report

City Engineer Griffin reviewed the request for the Council to order a feasibility report for the CSAH 13 project so the costs can be assessed to the benefitting properties.

Councilmember Lundgren, seconded by Councilmember Smith, moved TO APPROVE RESOLUTION NO 2016-67, ORDERING PREPARATION OF A FEASIBILITY REPORT BY FOCUS ENGINEERING FOR THE CSAH 13PHASE 1 IMPROVEMENTS IN A NOT TO EXCEED AMOUNT OF $7,000. **Motion passed 5 – 0.**

ITEM 18: OP4 Boulder Ponds LLC Zoning Map Amendment/PUD Amendment

Planning Director Wensman reviewed the application to rezone two outlots and adjust the density. Discussion was held concerning the density that was approved with the final plat and the need for the applicant to join the two outlots in one zoning classification. Ben Schmidt of the Excelsior Group provided background on the zoning and stated that the group plans to construct senior housing on the combined outlots.

Councilmember Smith, seconded by Councilmember Lundgren, moved TO POSTPONE THIS ITEM TO THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING. **Motion passed 5 – 0.**

ITEM 19: Title XV, Chapter 154 of the Lake Elmo City Code Related to Temporary Health Care Dwellings

City Planner Wensman reported on a new state law that allows for permitting and use of temporary health care dwellings. Wensman explained that the City can pass an ordinance to opt out of the law and not allow temporary health care dwellings as recommended by the Planning Commission.

Councilmember Smith, seconded by Councilmember Lundgren, moved TO APPROVE ORDINANCE 08-151 OPTING OUT OF MINNESOTA STATUTES, SECTION 462.3593. **Motion passed 5 – 0.**

ITEM 20: Pigeon Ordinance

Planning Director Wensman reviewed the proposed ordinance that would regulate the keeping of pigeons.

Councilmember Fliflet, seconded by Councilmember Smith, moved TO APPROVE ORDINANCE 08-148 REGULATING THE KEEPING AND MAINTAINING OF PIGEONS.

Discussion was held concerning the need for an ordinance and the current status of pigeons kept in the City. Resident Barry Weeks commented that his dad had an average of about 150 pigeons on a one acre lot in the past with no issues. Staff was directed by Council consensus to allow the keeping of pigeons without regulation.

Motion withdrawn.

ITEM 21: Fence Ordinance Revisions

Planning Director Wensman reviewed the fence ordinance relating to solid fences over four feet high. Wensman provided background information and requested the Council consider repealing Subd. (E)(3) and direct the Planning Commission to hold a public hearing on the repeal.

Councilmember Bloyer, seconded by Councilmember Fliflet, moved TO DIRECT CITY STAFF AND THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING AND CONSIDER RECOMMENDING APPROVAL OF THE CITY'S FENCING REGULATIONS THAT REPEALS SUBD. (E)(3) OF SECTION 154.205: FENCING REGULATIONS OF THE CITY CODE. **Motion passed 4 – 0 – 1.** (Smith – abstain)

ITEM 22: Village Preserve 2nd Addition Developer Agreement

City Planner Wensman reviewed changes to the Developer Agreement that deviate from the template in the areas of phasing, security release for landscaping, landscaping and tree replacement, title policy, street signs and special assessments. Discussion was held concerning some of the changes.

Mayor Pearson, seconded by Councilmember Lundgren, moved TO ADOPT RESOLUTION 2016-70 APPROVING THE DEVELOPER'S AGREEMENT FOR VILLAGE PRESERVE 2ND ADDITION WITH A CHANGE FROM ONE YEAR TO TWO YEARS IN SECTION 35B.
Motion passed 5 – 0. (*Motion reconsidered later in the meeting)*

ITEM 23: Hammes Estates Development Agreement

City Planner Wensman summarized the history and current status of the project. Wensman noted that the developer has agreed to install the tot lot as an HOA amenity to be installed at the developer's expense and owned by the HOA. City Attorney Sonsalla read suggested changes to paragraph 22, "Park Dedication". Chuck Alcon spoke on behalf of the developer and confirmed the commitment to installing the tot lot.

Councilmember Bloyer, seconded by Councilmember Smith, moved TO ADOPT RESOLUTION 2016-71 AS AMENDED TO INCLUDE THE LANGUAGE SUGGESTED BY THE CITY ATTORNEY.

Councilmember Smith, seconded by Councilmember Fliflet, moved TO POSTPONE FURTHER CONSIDERATION OF ITEM 23 TO FOLLOW ITEM 24. **Motion passed 5 – 0.**

ITEM 24: RFP for Job Classification and Compensation Study

City Administrator Handt presented information and recommendations from the Human Resources Committee for a job classification and compensation study, noting that the information would also be utilized in the pay equity report due to the state in January 2017.

Councilmember Bloyer, seconded by Councilmember Lundgren, moved TO AUTHORIZE THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR A JOB CLASSIFICATION AND COMPENSATION STUDY. **Motion passed 5 – 0.**

ITEM 23 continued

Discussion held concerning the street installation warranty period in Section 35B of the Developers Agreement.

Primary motion on item 23 passed 5 – 0.

Councilmember Smith, seconded by Mayor Pearson, moved TO RECONSIDER THE MOTION MADE ON ITEM 22, VILLAGE PRESERVE DEVELOPERS AGREEMENT. **Motion passed 5 – 0.**

Mayor Pearson, seconded by Councilmember Smith, moved TO AMEND THE APPROVAL OF THE VILLAGE PRESERVE 2ND ADDITION DEVELOPERS AGREEMENT TO REMOVE THE CHANGE TO SECTION 35B. **Motion passed 5 – 0.**

ITEM 25: An Ordinance Amending the Lake Elmo City Code of Ordinance by Amending the City's Provisions Related to the City Council and Summary Publication

Administrator Handt reported that this item is a follow up from the August 10, 2016 workshop discussion regarding changes to section 31.04 of the City Code.

Councilmember Smith, seconded by Mayor Pearson, moved TO APPROVE ORDINANCE 08-150. Friendly amendment accepted to add "from Council" after "All requests" in paragraph 2a on page 10; strike "by roll call vote" on page 9, paragraph C4; and to add that Council Meeting packets will be delivered 4 days prior to the meeting. **Motion passed 5 – 0.**

Mayor Pearson, seconded by Councilmember Smith, moved TO ADOPT RESOLUTION 2016-69 APPROVING SUMMARY PUBLICATION OF ORDINANCE 08-150.

ITEM 26: No-Wake High Water Elevation Level for Lake Demontreville and Olson Lake

Administrator Handt reviewed her staff report regarding possible review of the no wake threshold on Lake Demontreville and Olson Lake. Councilmember Lundgren stated that her intent was for all four lakes to be reviewed, not just Demontreville and Olson.

Terry Boczek, 8110 Demontreville Trail, stated that a compromise was reached on this issue a few years ago and it is working.

Patrick Dean, 8028 Hill Trail, reviewed the history of the no wake ordinance and stated that lake owners are losing property rights.

Debbie Dean, 8028 Hill Trail, stated that the Lake Demontreville & Olson Association is a small group of residents trying to restrict lake usage.

Cory Boudreau, 8382 Hidden Bay Trail, spoke against lowering the no wake level, stating that boat traffic is very low and not causing an erosion issue.

Dave Carlson, 8554 Hidden Bay Trail, stated opposition to any further restrictions on the lakes and added that he disagrees with the facts in the LDO letter.

Dan Stoudt, 8012 Hill Trail, stated that further lake restrictions will prevent him from being able to utilize the lake with his daughters.

Roger Johnson, 8048 Hill Trail, stated that the LDO's purpose is to protect the shore of these two lakes that are small, shallow, narrow and busy.

Jim Arkell, 8131 Hidden Bay Trail, stated that the current lake level is working and he enjoys being able to use the lake with his granddaughters.

Tom Burns, 7962 Hill Trail, reported that he has no issues with erosion on his property and does not want additional restrictions.

Brenda Jo Carlson, 8554 N. Hidden Bay Trail, presented historic information on lake levels and stated that additional restrictions reduce property values.

Steve Schleicher, 4774 Olson Lake Trail, stated there is no evidence the current level is not working and there is no need for the Environmental Committee to review it.

Karen Slakey, 7872 Demontreville Trail, asked for the current level to remain in place and allow residents to use the lake.

Gary Fields, 4751 Olson Lake Trail, stated that he sees erosion on his property and others and supports sending the lake level to the Environmental Committee for review.

Trevor Judd, 7920 Hill Trail N., stated he moved to Lake Elmo to enjoy the lakes and opposes any changes.

Anne Judd, 7920 Hill Trail N., stated that she bought her home on the lake so she could train for waterskiing competitions and teach kids to water ski, adding she is opposed to any further restrictions.

Link Lavey, 8510 Hidden Bay Trail, paddle boards on both lakes and supports sending lake levels to the Environmental Committee for review.

Dale Dorschner, 3150 Lake Elmo Avenue N., expressed disappointment that the Lake Elmo Association was not notified and asked that lake level matters be left to the DNR and watershed districts.

Tony Nelson, 4535 Lake Jane Trail, stated he has noticed a lot of erosion during ice out and heavy rain, but boat damage is very small.

David Offord, 9369 Lake Jane Trail, stated there is a lack of data from experts and asked that the city not reconsider lake levels without data.

Councilmember Bloyer, seconded by Councilmember Smith, moved TO REFER THE NO WAKE HIGH WATER ELEVATION LEVEL FOR LAKE DEMONTREVILLE AND OLSON TO THE ENVIRONMENTAL COMMITTEE WITH THE UNDERSTANDING THAT EVERY MEETING AND SUBCOMMITTEE BE VIDEOTAPED. **Motion failed 0 – 3 – 2. (Fliflet, Lundgren, Smith – nay)**

Councilmember Lundgren, seconded by Councilmember Smith, moved TO REFER THE NO WAKE HIGH WATER ELEVATION LEVEL FOR ALL FOUR LAKES TO THE ENVIRONMENTAL COMMITTEE. **Friendly amendment accepted to add that the meetings will be videotaped. Motion passed 3 – 1 – 1. (Pearson, Bloyer – nay)**

STAFF REPORTS AND ANNOUNCEMENTS

Administrator Handt: Reported on upcoming road closures

City Clerk Johnson: Announced that the candidate filing period for City offices closed and candidate names are posted on the City's website.

Finance Director Bendel: Working on finalizing the budget and stormwater assessments

City Attorney Sonsalla: Working on nuisance ordinance update.

Meeting adjourned at 11:53 pm.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk