

CITY OF MARINE ON ST. CROIX CITY COUNCIL MEETING  
Thursday, May 10, 2012

The meeting was called to order by Mayor Mills at 7:00pm. Marker, Miller, Benson and Mowery present.

Citizens Present: Lon Pardun, Win Miller, Florence Musenbrock, Rebecca Alm, Michael Mackner, Julie Nagorski, Harold Teasdale, Eileen Hunter, Dan Willenbring, Steve Suby, Jack Warren, David Denn, Sherrill Reid.

Citizens Considerations –

Jason Bailey – Olives – Letter received by the Minnesota Department of Revenue stating that Mr. Bailey is delinquent with his taxes, and that the City has 30 days from the date it received this letter to revoke his Wine/Beer license. Mr. Bailey is currently working with the State to get this issue resolved, and has submitted a letter requesting the City give him the full 30 period prior to revocation.

*Motion by Marker seconded by Miller to revoke the wine and beer license for Olives Pizza Bar on May 30, 2012 if not notified that all back taxes and liquor license are paid in full. Motion passed unanimously.*

Planning Commission – Jack Warren gave an update on the April meeting. There were two public hearings, one for Rollin and Rebecca Alm and the other for the Village Center Comp Plan addendum. There is an informal request for a business in town that is being reviewed.

Alm Variance Request – City Attorney, Dave Snyder, gave the background of the variance request for Rollin and Rebecca Alm at 400 Judd Street. The request is for a home occupation in an accessory building. Mr. Snyder advised the view of the City was that variance request for the use of a home occupation without a principle structure was not allowed by current code. The Planning Commission recommended denial.

Julie Nagorski, Alm Attorney, believes that the initial request for a home occupation without a principle structure is permitted by the code based upon the use per section 407.2. Ms. Nagorski believes that the accessory building is accessory to a principle structure, which isn't built yet. Marker noted that the building is then accessory to nothing. Dave Snyder noted section 402.3 references that an accessory building has to be accessory to a principle structure. Mr. Snyder believes that neither the purpose nor language of the code is met if any standalone building which is conceded is not a dwelling is claimed to be a home for purposes of the home occupation ordinance, and per the proposed findings, section 407.1 of the code requires that the occupational use is clearly accessory and secondary to the principle dwelling use and the compatibility with surrounding residential uses.

Win Miller, resident, believes the building as it stands is illegal and should be red tagged and

removed.

Dave Snyder noted that the demand made here does not constitute a comment from Council on the merits of what hopes to be done with the property, and that under current code it is clear that you cannot have a home occupation without a home.

Mayor Mills questioned the additional variance requests. Those were included in the findings and facts, however were not treated with the detail as the use variance given the use requested could not be permitted. Mayor Mills questioned the need for sewer and water, plus the fact that the lot is substandard. Mrs. Alm stated they received permission from Washington County for a holding tank if the City gives permission. Mayor Mills noted that the permit from Washington County is only good for one year. Marker questioned whether the no retail sales submission changes the use position at all. Dave Snyder is basing his recommendation on the initial information given to the City at that time.

Dan Willenbring, resident, quoted section 407.1 purpose of home occupations, states that a home occupation is a secondary use to the residence. Ms. Nagorski believes that a purpose is not the same as a requirement, and therefore should be allowed. Marker disagrees. Ms. Nagorski noted that their application clearly states that there is no retail or gallery use on this property. Warren stated that the findings for the denial were based upon several things, including the definition of home occupations, and not just the retail sales portion.

Win Miller doesn't believe the code contemplates anything but residential uses in a residential zoning district and recommends the Council deny the variance requests based upon the entire record and not just a single element. Ms. Nagorski believes that if the variance request is not permitted then there really could be no use for the property, and she doesn't believe anyone wants to own a piece of property that cannot be used.

The Alms neighbor in May Township believes the Alm's would be an asset to Marine.

Win Miller noted that the previous owner used that building for storage as indicted in the letter, and believes the purchaser clearly did not look at the issue of use or do due diligence when purchasing the property, and doesn't believe that burden should be put on the citizens of Marine.

Benson questioned if there needs to be a conversation regarding the whether the current use of that building is allowed, and if there are other paths the applicant can take. Benson noted that any variance having to do with septic has a history of not passing and he doesn't see that changing. Miller questioned if the applicant has spoken with the seller regarding the sales flyer. Marker doesn't believe that is relevant, and that the City should act strictly on the code. As the request sits right now, he would recommend denial of the application as presented.

It was noted that the applicant may not resubmit any application for consideration for a minimum of a six month period.

*Marker moved and Benson seconded to recommends the Council deny the application as presented based upon the findings and facts of the Planning Commission and City Attorney, including the most current findings and facts. Motion passed unanimously.*

Village Center Task Force Update – Warren advised that the Public Hearing held in April was recessed until the May meeting. During the first half of the hearing, the comments regarding the results or outcome of the plan were generally very positive. There were very little concerns regarding the “on the ground” portion of the plan. There were questions as to when an engineer and/or attorney review of the plan, how funding would be received, etc relating to the implementation. Benson noted that the Comp Plan and the concept plan are both conceptual. There is nothing in either of those plans that could happen without Council approval. One of the suggestions made at the April meeting was to have an Attorney review the verbiage of the concept plan to ensure that there is nothing that would obligate the City to anything prior to approval. Benson is recommending the Council agree to that request, so that the Attorney’s response is available for the May meeting.

Dan Willenbring presented the Council with the meeting minutes and agenda items of the last task force meeting. There are some current opportunities for grant funding, one through the EPA to assist with the engineering for VC plan projects, and two potential for Great River Greening. Willenbring is requesting the Council consider a speedy approval of the addendum to help give credibility to these grant applications.

Bill questioned Larry Sterle’s recommendation to have a fundraising group review the plan also, and if this has been looked into. Jack Warren noted the Great River Greening reviewed the plan and walked some of the area and gave a dollar estimate for free. The City doesn’t have the budget to submit this plan to outside groups for opinions.

The Council agreed to use some funds out of the budget set aside for planning to have the City Attorney review the current addendum draft.

Miller advised there is a suggestion for removing a part of the asphalt on Third/Maple Street to help alleviate the water run off issues. There are still questions to be answered before moving forward, but it is a start. Willenbring would like the task force to be involved so any soil borings taken are taken in a spot that could help future task force projects.

Committee Reports –

Jackson Meadow – Marker introduced a Resolution formalizing the position of the JM Homeowners Association as the owner and operator of the septic system, and incorporates a letter from the HOA attorney addressing this issue, releases the Developer of the letter of credit obligation and acknowledges the City’s ongoing interest in the operation of this system.

Dave Snyder has reviewed this document, along with the Homeowners Association and their attorney. Marker also noted that the responsibility will be the entire system, including the lines running from the homes to the system. At some point, the City will come into contact with the HOA for work done to the lines under the roads that will require restoration, however Marker doesn't believe this needs to be handled at this time.

*Marker moved and Benson seconded to approve Resolution 051012-01, releasing the line of credit and recognizing the Homeowners Association as the owner and operator of the Jackson Meadow Septic System. Motion passed unanimously.*

Trail Reimbursement Request for trail maintenance. – Steve Suby, treasurer for the Homeowners Association, was in attendance to answer questions regarding their submitted invoice. Miller questioned clarification of the bill. Some of the requests are for capital expenditures and others are for trail maintenance. Miller doesn't believe that the tax payers should be paying for equipment used for private trails, and most of the trail maintenance is being done by our public works department. Suby submitted an updated reimbursement request along with a detailed list of expenditures from 2009 forward.

Eileen Hunter questioned the City's definition of "private" trails, as all the trails up there are open to the public. Benson stated that there are some trails the City maintains and some we don't, and the City is currently getting an inventory of those trails. In the future, the HOA will continue to submit invoices for reimbursement to be reviewed by Council.

Animal Control – Sherrill Reid was in attendance to address her invoice from last month for a feral cat. Ms. Reid contacted the Human Society and they will not take feral cats, so she was mistaken in her wording on the invoice in calling the cat feral. Benson will work with Ms. Reid to add appropriate wording to her contract regarding the pick up of cats.

Public Safety – Clerk Peterson requested approval for a one day liquor license for the Street dance.

*Marker moved and Miller seconded to approve a one day liquor license for the Street dance. Motion passed unanimously.*

Roads -Working on chip sealing and patching.

Personnel/Building Inspector – Jim Rolig, new compost attendant, is requesting an increase in pay. The current pay is \$8.50/hr.

*Marker moved and Benson seconded to increase the pay to \$9.00/hr. Motion passed unanimously.*

Recreation – William O’Brien parking issue has been tabled. Jason Husveth hopes to submit the trail maps at the June meeting. The MN Historical Society is interested in working with the city on a new trail at the Mill Site as part of the task force plan. Dan Froiland will be working on some fence repairs in the Mill Site. Curt Moe questioned storing some equipment for the Mill Site in the Log Cabin by the tables. Public Works didn’t see any issues, so the consensus was to go ahead and if any issues arose, they could be addressed at that time.

Finance – No Report.

Hall/Restoration – Sprinkler tanks are ordered.

Cemetery – No report.

Village Center – Mowery questioned the scrap metal business downtown. Mowery will contact the property owner and discuss at the June meeting.

Wastewater and Water Systems – There was significant I&I issue on Rose Street, and it turned out to be a malfunctioning water softener across the street. The City will send a letter to the property owner addressing the problem.

A certificate of commendation was received from the MPCA for our wastewater operators.

The City staff recently found out that the City Wastewater engineer has retired, however TKDA failed to inform the City. The City will consider looking for a new engineering firm.

Clerk Peterson presented two draft resolutions, one adopting a proposed sanitary sewer maintenance policy, and the other adopting a sanitary sewer emergency response policy. The adoption of both of these resolution would enable the City to significantly lower the deductible on any sanitary sewer insurance claims.

*Miller moved Resolution No 0510-02, a Resolution adopting a Sanitary Sewer Maintenance Policy. Marker seconded. Motion passed unanimously.*

*Miller moved and Marker seconded to adopt Resolution No. 051012-03, a Resolution adopting a Sanitary Sewer Response Policy. Motion passed unanimously.*

Consent Calendar – *Miller moved and Mowery seconded to approve the Minutes of 4/12/12, Treasurer’s Report dated 4/12, the List of Bills for 5/10/12, Zoning Administrator’s Report (None), Planning Commission Minutes and the April Maintenance Report. Motion passed unanimously.*

Old/New Business –

Long/Short term goal review – The following items have been resolved: Public utilities, new PS truck, no parking signs and maintenance bldg. alarm.

Torte Liability Waiver – *Benson moved and Miller seconded to waive the torte liability limit for the City insurance policy. Motion passed unanimously.*

Mayor Notes/Clerk's Report – None

Adjournment – *Marker moved and Benson seconded to adjourn at 9:25p.m. Motion passed unanimously.*

Minutes taken by Lynette Peterson, City Clerk