

CITY OF GRANT
MINUTES

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DATE : June 3, 2008
TIME STARTED : 7:00 p.m.
TIME ENDED : 10:50 p.m.
MEMBERS PRESENT : Councilmember Fogelson, Hinseth, Linner, Levitz,
and Mayor Carr
MEMBERS ABSENT : None

Staff members present: City Attorney, Nick Vivian; City Engineer, Diane Hankee; City Planner, Sherri Buss; City Treasurer, Bob Mikkelsen; and City Clerk, Kim Points

CALL TO ORDER

Mayor Carr called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

SETTING THE AGENDA

Item 6Ei, Enforcement Process, was added to the regular agenda.

Council Member Hinseth moved to approve the agenda as amended. Council Member Linner seconded the motion. Motion carried unanimously.

CONSENT AGENDA

May 13, 2008, Special City Council Meeting Minutes	Approved
Gambling Permit, St. Jude of the Lake Church at Applewood Hills	Approved
Gambling Permit, Camp Odayin at Indian Hills	Approved

Council Member Fogelson moved to approve the Consent Agenda, as amended. Council Member Levitz seconded the motion. Motion carried unanimously.

May 6, 2008, City Council Meeting Minutes:

Page 2, line 5, was corrected to read "He stated the project would be beneficial to the community".

Page 4, line 5 and 6, was moved to line 11 and 12.

1
2 Page 4, line 18, was correct to read “Council Member Hinseth referred to the Oakleigh Dock
3 Association issue and noted it has been an ongoing agenda item since last October”.

4
5 Page 6, line 7, was corrected to read “Grant residents that live along Goodview Avenue to pave the
6 road”.

7
8 **Council Member Hinseth moved to approve the May 6, 2008 City Council Meeting Minutes, as
9 amended. Council Member Linner seconded the motion. Motion carried unanimously.**

10
11 **Bill List, \$74,778.48:**

12
13 **After clarification regarding the bill from Tautges Redpath, Council Member Fogelson moved
14 to approve the Bill List, as presented. Council Member Levitz seconded the motion. Motion
15 carried unanimously.**

16
17 **PUBLIC COMMENT**

18
19 No one came forward for public comment.

20
21 **STAFF REPORTS**

22
23 **May 2008, City of Grant Police Report, Deputy Breana Fry** - The May 2008 Police Report was
24 provided to be placed on file for review at City Hall. Deputy Fry noted the month was busy with 221
25 calls for service and 50 citations. She noted there has been an increase in vandalism including spray
26 painting in the area of the railroad tracks at Ironwood.

27
28 Council Member Hinseth noted that when he recently used the ballfield, there was some spray
29 painting vandalism on the ballfield equipment box.

30
31 **City Engineer, Diane Hankee** – City Engineer Hankee indicated her report for May 2008 was
32 provided to be placed on file for review.

33
34 **Jasmine Trail Feasibility Report** – City Engineer Hankee briefly reviewed the Jasmine Trail project
35 noting the schedule is flexible. She recommended a neighborhood meeting be held prior to a public
36 hearing and an informal poll be taken at that time.

37
38 **Council Member Hinseth moved to approve the Feasibility Report, as presented. Council
39 Member Linner seconded the motion. Motion carried unanimously.**

40
41 Council Member Hinseth suggested a copy of the feasibility report and a cover letter be sent to each
42 resident and then allow the residents to decide if they would like to move forward with the project.

43
44 **Jeffrey/83rd/Jody/Rolling Oaks Feasibility Report** – City Engineer Hankee outlined the project
45 scope noting there anywhere between 44-55% of the required signatures on the petition. She outlined

1 the options and stated it would be helpful if the City had support for the project from the Jeffery
2 residents.

3 Council Member Linner added residents along Keats Avenue should also be involved.

4
5 **Council Member Hinseth moved to approve the Feasibility Report, as presented. Council
6 Member Fogelson seconded the motion. Motion carried unanimously.**

7
8 Council Member Hinseth advised he would distribute information regarding the different options for
9 the projects and then the neighborhoods could decide how to proceed.

10
11 **Jasmine Avenue** – City Engineer Hankee provided an overview of the project and provided a set of
12 the draft plans. She requested the Council approve the plans and specifications for the project.

13
14 **Council Member Fogelson moved to approve the plans and specifications, as presented, and
15 authorize for bid for the Jasmine Avenue project. Council Member Hinseth seconded the
16 motion. Motion carried unanimously.**

17
18 **FEMA Notification Process/Appeal Map** – City Engineer Hankee provided the Council with an
19 update regarding the proposed FEMA map changes noting the City can not appeal flood plains
20 themselves but it may be possible to appeal property owners needing flood insurance.

21
22 **City Planner, Sherri Buss** – A report was provided in the Council packet for May 2008 City
23 planning activities, to be placed on file for review.

24
25 **Flug Amended CUP Application, Sherri Buss** – City Planner Buss provided the background of the
26 request noting the applicants are requesting an amended CUP to remove the private riding stable
27 limitation including the existing CUP, and to permit boarding of horses. The applicant also requests
28 amending the CUP to allow 44 pasture horses and 20 non-pasture horses, 64 horses total, on 89 acres
29 owned/leased by the applicant.

30
31 City Planner Buss advised the Planning Commission discussed the CUP request at its meeting on
32 April 7 and identified several issues. The Planning Commission then discussed the application and
33 materials submitted by the Planner, MPCA and Washington Conservation District at their meeting on
34 May 10.

35
36 City Planner Buss advised the Planning Commission voted 4-2 to recommend that the Council deny
37 the request for an amended CUP outlining the basis for recommending denial.

38
39 The City Council was in agreement regarding the removal of the private riding stable limitation. The
40 Council also agreed that the applicant would be required to obtain all necessary permits from the
41 MPCA. The City Council determined 44 horses would be allowed on the property as determined in
42 the previous CUP. The Council also agreed all fees for violations and non-compliance would be
43 waived at this time. Council Member Hinseth noted a time limit on compliance should be stipulated
44 or the City would require the applicants pay fines and or fees, per City ordinance.

45

1 **Mayor Carr moved to approve the amended CUP application for 44 animal units, per the**
2 **current City Ordinance, and based on all conditions outlined in the staff report. Council**
3 **Member Fogelson seconded the motion.**

4
5 Council Member Fogelson suggested a condition be added regarding a way that the City could
6 measure the number of horses on the property on a regular basis.

7
8 Mayor Carr stated the applicant should have time to reach compliance and then someone should be
9 sent out to investigate. The amended CUP should then be on next year's annual CUP review list.

10
11 The Council also indicated a copy of the leases should be included in the approval, as well as the
12 requirement that if the land changes the animal units must also change.

13
14 Council Member Linner clarified that fact that animal units refers to all animals on the property.

15
16 The Council indicated 90 days would be a reasonable amount of time for the applicant to come into
17 compliance with the amended CUP.

18
19 City Attorney Vivian advised the Council should take action on the application as submitted unless
20 the applicant agrees to 44 animal units. The applicant has requested 64 animal units.

21
22 Ms. Christine Flug, applicant, came forward and stated she believes the request should be split into
23 two phases. The first phase is changing the CUP to reflect commercial boarding. The second phase
24 is the request for 64 horses. She provided the Council with the background of the property noting she
25 believed she could board more horses than the ordinances states, one per two grazable acres, with a
26 CUP if certain requirements were met. She stated she did not think she needed to come back in and
27 apply for a new CUP.

28
29 **Mayor Carr withdrew the motion and Council Member Fogelson withdrew the second.**

30
31 Mayor Carr stated he wondered why the City would change the commercial boarding language within
32 the CUP when the applicant won't agree to the number of horses that was also approved within the
33 original CUP.

34
35 **Council Member Hinseth moved to deny the amended CUP application, as presented. Mayor**
36 **Carr seconded the motion.**

37
38 Ms. Flug stated she may have been wrong about compliance but she is not damaging the land with
39 the current number of horses. She noted she has 88 names on a petition from neighbors that are not
40 against the operation or current request. Over grazing the land is not an issue. She distributed
41 information relating to requirements from the MPCA. She stated she believes the City needs to have
42 a reason to deny the amended CUP request and all the reasons that the Planning Commission denied
43 the application have been addressed.

44
45 The Council outlined the following Findings of Fact for denial:

46

- 1 1. Request for too many animals per grazable acres.
- 2 2. Lack of adequate plan for manure management, ground water contamination, pollution
- 3 and control.
- 4 3. Violation of the current CUP.

5
6 **Motion carried with Council Member Fogelson voting nay.**

7
8 City Attorney Vivian advised a resolution outlining the denial will be on the July Council agenda.
9 He also advised if Ms. Flug does come back to the City with an amended request the City could
10 shorten the process and waive fees.

11
12 **Council Member Hinseth moved to amend the current CUP application to allow for 44 horses**
13 **on the property and allow for commercial boarding on the condition that property leases be**
14 **formal and in place and if the leases expire, the animal count must go down. A monthly animal**
15 **count will also take place, the MPCA permit must be issued and the applicant has 90 days to**
16 **come into compliance. Mayor Carr seconded the motion.**

17
18 **Council Member Linner made a friendly amendment to include a buffer relating to the**
19 **watershed also be established. Council Member Hinseth and Mayor Carr agreed to the**
20 **amendment.**

21
22 City Attorney Vivian advised that from a process stand point, he does not believe the City should
23 move forward with the motion unless the applicant agrees.

24
25 City Planner Buss suggested she write a letter to the applicant outlining the options and conditions so
26 the applicant has some time to think about what she is allowed to do on the property allowing time to
27 post a public hearing if necessary.

28
29 **Council Member Hinseth withdrew the motion. Mayor Carr withdrew the second.**

30
31 The Council advised the applicant the City's goal is compliance.

32
33 **American Polywater CUP Application, Sherri Buss** – City Planner Buss advised the applicant,
34 American Polywater Corporations (APC), located at 11222 North 60th Street, has submitted an
35 application for an Amended Conditional Use Permit (CUP) for the property located at 11170 60th
36 Street North.

37
38 City Planner Buss provided an overview of the request and the recommended conditions of approval.
39 She noted the Planning Commission reviewed the application at its May 19 meeting and
40 recommended approval of the application for the Amended CUP to the Council.

41 Mr. Win Miller, applicant, came forward and commented on the water and fire safety issues noting
42 there is more than enough water in the current water reservoir.

43
44 **Council Member Linner moved to approve the American Polywater CUP application, based on**
45 **the outlined conditions. Council Member Hinseth seconded the motion. Motion carried**
46 **unanimously.**

1
2 **Park Nursery/Hedberg Update, Sherri Buss** – City Planner Buss provided the background noting
3 the Applicant has provided an agreement proposed to further clarify and supplement the existing
4 CUP. The agreement describes the history of permits and use of the property, and includes proposed
5 uses and conditions.

6
7 City Planner Buss outlined the Council and resident concerns regarding this issue noting it does not
8 appear that the applicant wishes to apply for an amended CUP. She also outlined the City options
9 relating to this issue.

10
11 Mr. Peter Beck, Attorney for the Applicant, came forward and commented on what the CUP does
12 allow acknowledging there are more hard goods sold on the site than before. However, there is no
13 violation of the CUP. Mr. Hedberg can not apply for an amended CUP because a garden center is no
14 longer allowed. He outlined the changes that will be made to the site if an agreement is reached.

15
16 Mayor Carr stated he would like to see the current Cup in compliance and does not believe it is
17 currently in compliance.

18
19 City Attorney Vivian advised an agreement was included in the Council packets for Council
20 consideration. The City does have the option of approving a text amendment to the ordinance that
21 would allow for a garden center. Then Mr. Hedberg could apply for an amended CUP.

22
23 Council Member Hinseth suggested the City consider a variance for the garden center as opposed to
24 changing the ordinance. He indicated he has concerns about an ordinance change or text amendment
25 having unintended negative consequences elsewhere in Grant.

26
27 **Council Member Hinseth moved to schedule a public hearing for the July Council meeting to**
28 **revoke the Park CUP. Council Member Linner seconded the motion.**

29
30 City Attorney Vivian stated he is not sure a use variance would be allowed. The City would also
31 have to find a hardship to approve a variance. He stated he believes a text amendment to the
32 ordinance would be a better way to proceed. If the Council would like to consider handling this with
33 an agreement, a public hearing could be scheduled to take comment on the agreement, similar to the
34 CUP process.

35
36 Mayor Carr stated his concern is the multiple businesses on the same site. He clarified that the
37 agreement would clarify the CUP from 1990.

38
39 Mr. Peck stated all businesses on the site are related to the primary business.

40
41 Council Member Linner referred to the Planner's report, recommendations and conditions noting the
42 report outlines all the issues. She stated an agreement would have to go through the City process just
43 like an amended CUP request.

44 Council Member Hinseth stated he would like to see a draft agreement and site plan at the July
45 meeting.

46

1 **Council Member Hinseth amended the motion to include that if the City does have a draft**
2 **agreement and site plan in the July Council packets the public hearing would be cancelled.**
3 **Council Member Linner agreed to the amendment.**

4
5 The Council directed the Planner to work on a draft agreement to be ready for the July Council
6 meeting.

7
8 **Council Member Hinseth withdrew the motion. Council Member Linner withdrew the second.**

9
10 City Planner Buss referred to the Planner's staff report and requested direction regarding the Marotz
11 complaints. She asked if the City would like to proceed with a COC or send the issue to the City
12 Attorney for enforcement.

13
14 The Council directed the Planner to proceed with a COC and enforcement on the hazardous tankers.

15
16 **City Attorney, Nick Vivian** – City Attorney Vivian provided a report for May 2008 to be placed on
17 file for review.

18
19 **Oakleigh Dock Association** – City Attorney advised he has received letter from Mr. Jahnke's
20 attorney. They have initiated a registration proceeding to change the boundaries of the property or
21 they will purchase the property for \$30,000. He also advised he has not been able to reach an
22 agreement with the Oakleigh Dock Association and is doubtful that an agreement that is satisfactory
23 to both parties will be reached.

24
25 Mr. Steve Meyron, Attorney for Oakleigh, came forward and reviewed the legal issues relating to this
26 matter. He stated he believes the Dock Association can use the property. He requested the City not
27 take any action to prohibit use of the property.

28
29 **Mayor Carr moved to require a lease be in place within ten business days or the dock will be**
30 **removed and the City will move forward with an unlawful detainer. Council Member Hinseth**
31 **seconded the motion. Motion carried unanimously.**

32
33 **Council Member Hinseth moved to direct the City Clerk to place an ad in the paper advertising**
34 **White Bear Lake lakeshore property for lease. Council Member Linner seconded the motion.**
35 **Motion failed with Council Member Fogelson, Levitz, Linner and Mayor Carr voting nay.**

36
37 **Escrow Update** – City Attorney Vivian updated the council on the escrow collections noting the
38 Reiland escrow case will be refiled and he believes he will be successful with US West.
39 Council Member Linner noted that three of the escrow collections were unsuccessful because too
40 much time had lapsed. She stated she continues to be disappointed that those were not previously
41 collected. She added she is glad the City now has people taking care of the escrows.

42
43 **Building Inspector, Jack Kramer** – A report was from Building Inspector Kramer was provided for
44 May 2008 to be placed on file for review.

45

1 **Enforcement Process, Kim Linner** – Council Member Linner referred to the Building Inspector
2 report and zoning violation issues. She inquired about Mr. Ritt and stated Mr. Pohl has not met his
3 requirements and is currently not in compliance with his CUP as of May 1, 2008.

4
5 City Attorney Vivian advised he spoke with Mr. Ritt last week. He distributed a picture of the
6 property in questions noting the pool has been removed and another week is needed to remove the
7 retaining wall.

8
9 **Council Member Hinseth moved to require all pool related improvements be removed by the**
10 **first of next week or the City will fine the property owner \$100 per week, every week, for non-**
11 **compliance. Council Member Fogelson seconded the motion. Motion carried unanimously.**

12
13 Council Member Linner referred to the enforcement issue and stated her concern is the Council wants
14 people to comply. She asked if the Council continually has to vote to enforce the issues.

15
16 City Attorney Vivian stated he is hesitant to take legal action without Council action. The Planner is
17 authorized to have the Sheriff issue citations.

18
19 The Council requested the City Attorney look into the matter of enforcement relating to Council
20 action for the July meeting and make a recommendation.

21
22 The Council also directed the Building Inspector to red tag Mr. Pohl due to non-compliance.

23 24 **OLD BUSINESS**

25
26 There was no old business.

27 28 **NEW BUSINESS**

29
30 **2007 Audit** – City Treasurer Mikkelsen advised the 2007 audit was included in the Council packets
31 for review. He stated he will be getting some clarification on the numbers and he would be drafting a
32 MD & A letter. The audit is due to the state by June 30, 2008.

33
34 **Council Member Hinseth moved to accept the 2007 audit with corrections by the City**
35 **Treasurer. Council Member Levitz seconded the motion. Motion carried with Council**
36 **Member Linner voting nay.**

37
38 City Treasurer Mikkelsen commented on the levy limits noting they were set at 3.9% for the next
39 three years. He stated he is concerned about that however, after speaking with the League of
40 Minnesota Cities there are ways around that but those avenues may not apply to the City. The levy
41 limits will have to be considered during the budget process.

42
43 **Council Member Fogelson moved to extend the meeting by 15 minutes. Council Member**
44 **Hinseth seconded the motion. Motion carried unanimously.**

45

1 **Road Repair Request, Brad Hinseth** – Road Commissioner Hinseth advised there are several
2 miscellaneous road repair projects that need to be completed. There should be a line item in next
3 year’s budget for that purpose. This year there is \$58,000 leftover from the snowplowing account.
4 He stated he would like to use some of those dollars to complete the road projects this year. He
5 reviewed the proposed projects noting the amount would be approximately \$29,450.00

6
7 Council Member Linner stated she would also like to use some of those dollars for the two culvert
8 replacements at Town Hall.

9
10 The Council directed the City Treasurer to get the exact numbers from the snow plowing account and
11 for the Road Commissioner to review which projects really need to be done this year.

12
13 Road Commissioner Hinseth advised City funded dust control is done with the exception of 80th
14 Street because of gravel surfacing and the treated roads are currently in good condition.

15 DISCUSSION ITEMS

16 **City Council Reports:**

17
18 **County 7-8-9 Update, Mayor Carr** – Mayor Carr referred to the update on the County 7-8-9 project
19 that was provided in the packets.

20
21 Mayor Carr stated Mr. Plumbo had requested clarification on the zoning of his property. He stated he
22 did some research on that issue and believes the zoning map may be wrong. He requested the
23 Council authorize the City Attorney to review the documents to make a determination on the zoning
24 of the property.

25
26 Mrs. Plumbo, 6120 Lake Elmo Avenue, came forward and stated three sides of her property are in the
27 General Business zone. She stated she would prefer the property be in the GB zone but is concerned
28 about the new roadway that may be constructed.

29
30 **Council Member Fogelson moved to extend the meeting for five minutes. Council Member
31 Hinseth seconded the motion. Motion carried unanimously.**

32
33 Council Member Linner advised the Ordinance Codification steps would be completed in June.

34
35 Council Member Linner thanked Dean Strehlau, Supreme Remodeling, for the project at Town Hall
36 noting he went above and beyond what was required within the contract.

37
38 Council Member Fogelson stated the City picnic is Saturday, June 28. Antique cars and tractors are
39 needed and asked for residents to contact him.

40
41 Ms. Joyce Welander came forward and stated the Town Hall now has four new picnic tables due to
42 an Eagle Scout Project by Matthew Slama.

43 COMMUNITY CALENDAR JUNE 3 THROUGH JUNE 30, 2008:

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Planning Commission Meeting, Monday, June 16, 2008, Town Hall, 7:00 p.m.

ADJOURN

**There being no further business, Council Member Linner moved to adjourn at 10:50 p.m.
Council Member Fogelson seconded the motion. Motion carried unanimously.**

These minutes were considered and approved at the regular Council Meeting, July 1, 2008.

Kim Points, City Clerk

Tom Carr, Mayor

APPROVED