

CITY OF GRANT
MINUTES

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DATE : May 5, 2009
TIME STARTED : 7:05 p.m.
TIME ENDED : 10:28 p.m.
MEMBERS PRESENT : Councilmember Fogelson, Hinseth, Huber, Potter and Mayor Carr
MEMBERS ABSENT : None

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

CALL TO ORDER

Mayor Carr called the meeting to order at 7:05 p.m.

PLEDGE OF ALLEGIANCE

SETTING THE AGENDA

Council Member Hinseth moved to approve the agenda as presented. Council Member Huber seconded the motion. Motion carried unanimously.

CONSENT AGENDA

- April 7, 2009, City Council Meeting Minutes Approved
- Resolution No. 2008-08, DNR CUP Approved
- Joint Powers Agreement, DNR Gateway Trail Project Approved
- Camp Odayin, Gambling Exempt Permit One Day Raffle, Indian Hills Approved

Item 4B, Bill List, \$50,274.78, was removed from the Consent Agenda.

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

The monthly mobilization fee was clarified relating to the bill list.

Council Member Fogelson moved to approve Item 4B, Bill List, \$50,274.78, as presented. Council Member Potter seconded the motion. Motion carried unanimously.

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PUBLIC COMMENT

Mr. Bob Michaels, 11055 66th Street, came forward and stated he had recently heard the City is recommending no access at the Lake Elmo County Road 17 intersection. He stated he does not want the access taken away and believes it would be a safety issue for emergency vehicles. He asked that the emergency vehicle access be considered. He stated business owners in the community have rights and hopes there are no litigation issues if access is taken away. He stated he has not been notified about the public meetings on this issue.

Mayor Carr stated the City is not considering any options at this time regarding the project.

Mr. Jeff Cargill, 6782 Jocelyn Road, came forward and stated he would also like to be notified about public meetings.

Mr. Larry Becking, 6300 Keats Avenue North, came forward and asked what option was in place prior to the current option.

Council Member Hinseth stated roundabouts on both sides that preserved the access was the preferred choice but the cost of that option was excessive so that County removed that option.

Mr. Becking suggested that when something controversial like this is happening in the community citizens need to know so opinions can be given before a vote is taken.

STAFF REPORTS

Police Report, Deputy Breana Fry - The April 2009 Police Report was provided to be placed on file for review at City Hall. Deputy Fry reviewed the call list noting a significant bear sighting occurred as well as a cougar sighting. There has also been some theft from parked cars and mailboxes.

City Engineer, Diane Hankee – The April 2009 Engineer’s Report was provided to be placed on file for review.

MPCA MS4 Permit, Public Information Meeting – City Engineer Hankee asked if anyone was present to speak regarding this issue. No one was present to comment.

City Engineer Hankee presented the MPCA information and noted the District has not yet gotten into possible projects. She explained the classification of MS4 and advised the City at some point in time may have to develop a systems map.

Grader Bids – City Engineer Hankee stated bids have not yet been received. There is going to be an open house type day where everyone interested can come and look at the grader and the submit bids. Bids will be reviewed at the June Council meeting.

Grader Contract Extension – City Engineer Hankee advised Miller is willing to extend the grading contract two more years.

1 **Council Member Hinseth moved to accept the proposal to extend the Miller Contract based on**
2 **the figures presented. Council Member Fogelson seconded the motion.**

3
4 **Council Member Hinseth made a friendly amendment to extend the contract through 2012 but**
5 **a 3% increase. Council Member Fogelson agreed to the amendment.**

6
7 **Motion carried unanimously.**

8
9 **Gravel Bids** – City Engineer Hankee advised staff requested quotes to furnish and install 6000 tons
10 of gravel for various locations within the City. Authorization is needed from the Council to authorize
11 staff to work with that contractor to complete the work prior to dust control.

12
13 **Council Member Hinseth moved to accept the gravel bid from Raleigh Trucking, as presented.**
14 **Mayor Carr seconded the motion. Motion carried unanimously.**

15
16 City Engineer Hankee referred to the staff report and indicated the MN Board of Water & Soil
17 Resources is proposing to restore a wetland within the City of Grant to create wetland banking
18 credits. They asked if the City would be willing to waive the fees for the state. City Engineer
19 Hankee advised she is comfortable with that as the escrow is for restoration.

20
21 The City Council indicated they are also comfortable with waiving the escrow for a grading permit.

22
23 **City Planner, Sherri Buss** – A report was provided in the Council packet for April 2009 City
24 planning activities, to be placed on file for review.

25
26 **Sunny Brook Ponds Major Subdivision** – City Planner Buss advised the applicant, Dewey Dau on
27 behalf of the Elizabeth Dau Estate, has submitted an application for a Major Subdivision on the
28 property located at 7611 Jamaca Avenue North. The Sunnybrook Ponds Preliminary Plat options (A
29 and B) proposed to create six lots from the 61.6 acre property using lot averaging. The proposed is
30 located in the A-2, Agricultural, Small Scale District.

31
32 City Planner Buss provided the background on the application and advised the Planning Commission
33 recommended Option B. She noted there has since been another lot line change to the plan and she
34 reviewed the plat noting the proposed change.

35
36 City Planner Buss outlined the recommended conditions of approval and suggested an additional
37 condition relating to the applicant obtaining an access permit from Washington County for Lots 1 and
38 3 also be added.

39
40 City Attorney Vivian added the lots also need to comply with the Guest House Ordinance. He
41 advised a Developer's Agreement would be required also for all six lots. The Developers Agreement
42 will also require the escrow be replenished if it goes down to approximately 25%.

43 **Council Member Fogelson moved to approve Sunnybrook Ponds Major Subdivision Plan B1,**
44 **based on all outlined conditions. Council Member Potter seconded the motion.**

45

1 Mr. Tim Freeman, FFE, Inc. came forward and referred to condition #5 and stated he can not get the
2 final permits until the final plat is approved.

3
4 City Planner Buss advised that condition will be rewritten.

5
6 City Attorney Vivian advised the resolution approving the subdivision and the Developers
7 Agreement will be on the next Council agenda.

8
9 **Motion carried unanimously.**

10
11 **Resolution No. 2009-09, Approval of the 2030 City of Grant Comprehensive Plan** – City Planner
12 Buss advised the Metropolitan Council approved the City’s Comprehensive Plan and it becomes
13 effective immediately.

14
15 **Council Member Huber moved to adopt Resolution No. 2009-09, as presented. Council**
16 **Member Hinseth seconded the motion. Motion carried unanimously.**

17
18 **Resolution No. 2009-10, Adopting the Rules of the Watershed District Plans** – City Planner Buss
19 advised the City needs to adopt a resolution that adopts the Watershed District Plans and Rules, and
20 formally indicates that the Districts will complete administrative permitting related to surface water
21 management.

22
23 **Council Member Potter moved to adopt Resolution No. 2009-10, as presented. Council**
24 **Member Huber seconded the motion. Motion carried unanimously.**

25
26 **City Attorney, Nick Vivian** – The April 2009 City Attorney Report was provided to be placed on
27 file for review.

28
29 **Floyds Update** – City Attorney Vivian provided the Council with an update regarding this issue. He
30 noted he is communicating with the property owner and he is hoping to resolve the issues.

31
32 **Axdahl Update** – City Attorney Vivian advised he will be drafting a letter that will be emailed to the
33 Council. He asked that the Council comment directly to him only. He stated it has been brought to
34 all the parties’ attention that there are a number of steps that have to be completed prior to final plat.
35 If those steps can’t be done that site, as in existence, must apply to all zoning ordinances. The burden
36 is on the applicant.

37
38 **Reconsideration of Repeal of Ordinance No. 2002-95** – City Attorney Vivian advised Kim Linner
39 is working on the ordinance codification. She is recommending the City reconsider the septic
40 Ordinance it repealed last month and table it indefinitely.

41
42 **Council Member Hinseth moved to reconsider Ordinance No. 2009-09. Mayor Carr seconded**
43 **the motion. Motion carried unanimously.**

44

1 **Council Member Fogelson moved to table Ordinance No. 2009-09 indefinitely for the purpose**
2 **of reviewing local and state septic permit regulations. Council Member Potter seconded the**
3 **motion.**

4
5 Council Member Fogelson advised the state is considering legislation to allow shared systems and the
6 City of Grant does not allow that. The City at some point may adopt a resolution to prohibit
7 community systems but it would be best to wait.

8
9 **Motion carried unanimously.**

10
11 **Building Inspector, Jack Kramer** – A report was from Building Inspector Kramer was provided for
12 April 2009 to be placed on file for review.

13
14 **OLD BUSINESS**

15
16 There was no Old Business.

17
18 **NEW BUSINESS**

19
20 **Resolution No. 2009-11, Equine Operations, Nick Vivian** – City Attorney Vivian provided the
21 background on this issue relating to the County reclassification of horse boarding operations. Several
22 communities are passing as resolution indicating they are opposed to the reclassification. He
23 reviewed the language changes that clarified the intent of the resolution.

24
25 Council Member Hinseth requested the negative statement relating to other types of farming within
26 the City be removed from the resolution.

27
28 Mayor Carr clarified the resolution opposed the reclassification of properties that were changed for
29 year 2010.

30
31 **Council Member Huber moved to adopt Resolution No. 2009-11, as amended. Council Member**
32 **Fogelson seconded the motion. Motion carried unanimously.**

33
34 **Consideration of Renewing Excel Energy Franchise Fee Agreement, Mayor Carr** – Mayor Carr
35 advised the franchise fee agreement with Excel Energy will sunset in December 2009 if it is not
36 renewed six months prior. He asked the Council for direction regarding the agreement.

37
38 City Treasurer Mikkelsen advised he is an advocate of renewing the agreement. He stated the
39 franchise fee provides approximately \$52,000 in revenue for the City and another source for that
40 revenue would have to be determined. He added there is a \$50,000 payment due this year on the
41 grader. If the City chooses to sell the grader that could cover the revenue from the agreement for this
42 year. He also stated it would be a strain on the budget process if the agreement is not renewed.
43 Interest rates have really dropped which will decrease the budget this year by approximately \$15,000
44 so the City may already be short.

1 Mayor Carr provided the history on the franchise fee agreement noting the cost to implement the
2 program is approximately \$7,000 to \$8,000. He stated he is not supportive of the agreement but due
3 to the uncertainty of the times it may need to be renewed from a practical standpoint. He noted the
4 agreement can be terminated at any time.

5
6 Council Member Hinseth stated he believes it is a sneaky way to get revenue and he does not like it.
7 The lack of a grader payment will offset this is the grader is sold.

8
9 Council Member Fogelson stated he does not like the franchise fee agreement either. He stated it was
10 previously passed because of levy limits and the City is presently under the same restrictions. It is
11 prudent to retain the agreement as long as the City has levy limits.

12
13 Council Member Potter stated it is another form of a tax and would like to see it eliminated but it is
14 financially prudent to renew the agreement.

15
16 Council Member Huber agreed it is a sneaky fee and there are currently difficult budget times but is
17 in favor of abolishing the franchise fee.

18
19 **Council Member Fogelson moved to direct staff to extend the Franchise Fee Agreement with**
20 **Xcel. Council Member Potter seconded the motion. Motion carried with Council Member**
21 **Hinseth and Huber voting nay.**

22
23 **DISCUSSION ITEMS**

24
25 **City Council Reports:**

26
27 Council Member Huber advised he had computer problems so any emails sent this afternoon should
28 be resent. He inquired about intellectual property or work generated by a Council Member when
29 serving the City. He asked what is done with that work when Council Member no longer serve the
30 City noting Council Members are paid annually.

31
32 City Attorney Vivian indicated he is not aware of any laws pertaining to that issue but will look into
33 it and provide a report at the next Council meeting.

34
35 Council Member Huber suggested the City pass a resolution to enforce the idea that any work
36 product be turned over to the City upon the end of a Council Member's tenure.

37
38 Road Commissioner Hinseth advised the last coat of paving is being prepared for on Jasmine Avenue.
39 Brushing is being completed on 110th and Heron in preparation for graveling. Dust control will be
40 done before or after the Memorial Day weekend depending on the weather.

41
42 Council Member Fogelson stated the County would like the City's continued support regarding the
43 4H Club and funding from Washington County.

44

1 Mayor Carr stated he provided maps for those interested that shows intersections in the surrounding
2 communities that do not have access. He noted he is not advocating no access at Lake Elmo Avenue
3 and County Road 17.

4
5 Council Member Huber stated he has received letters regarding that project. He stated the power lies
6 with those who have the funding but asked what power the City has in terms of the project.

7
8 City Attorney Vivian stated the City has no direct authority on the project. The power is in numbers
9 and the Council will go on record with their preferred option. Resident need to be heard so the
10 Country is aware of the issues and concerns of those affected. If no solution is found the funding will
11 go elsewhere. The City has no power to force the County to do anything.

12
13 **CLOSED SESSION FOR DISCUSSION OF FLUG LITIGATION CASE, CITY ATTORNEY**

14
15 **Council Member Potter moved to go into a closed session at 9:15 p.m. Council Member Huber**
16 **seconded the motion. Motion carried unanimously.**

17
18 **Council Member Huber moved to adjourn the closed session at 10:27 p.m. Council Member**
19 **Potter seconded the motion. Motion carried unanimously.**

20
21 The Council directed the City Attorney to proceed as outlined during the closed session relating to
22 legal strategies in regard to the Flug litigation.

23
24 **COMMUNITY CALENDAR MAY 6 THROUGH MAY 31, 2009:**

25
26 **Planning Commission Meeting, Monday, May 18, 2009, Town Hall, 7:00 p.m.**

27
28 **Memorial Day, City Office Closed, Monday, May 25, 2009**

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31 **ADJOURN**

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33 **There being no further business, Council Member Huber moved to adjourn at 10:28 p.m.**
34 **Council Member Potter seconded the motion. Motion carried unanimously.**

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37 These minutes were considered and approved at the regular Council Meeting June 2, 2009.

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43 Kim Points, City Clerk

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42 _____
43 Tom Carr, Mayor