

CITY OF GRANT
MINUTES

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DATE : January 5, 2010
TIME STARTED : 7:00 p.m.
TIME ENDED : 11:00 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, Angela Torres; 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

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

CONSENT AGENDA

December 1, 2009, City Council Meeting Minutes	Approved
Bill List, \$47,369.00	Approved
Resolution No. 2009-25, 60 th Street CUP	Approved
Resolution No. 2009-26, Lake Elmo Avenue CUP	Approved
City of Stillwater, 2 nd Half Fire Contract, \$51,381.55	Approved
Miller Excavating, Snow Removal, \$14,525.35	Approved

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

1 **PUBLIC COMMENT**

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3 Mayor Carr suggested the Council allow public comment on the draft proposed grazable acres ordinance noting a public hearing was held at the Planning Commission meeting.

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6 It was the consensus on the Council to take public comment.

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8 Mayor Carr outlined the procedure for public comment and indicated the Council would then discuss the draft proposed ordinance.

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11 Mayor Carr advised the reason the City initiated the review of the current grazable acres ordinance is because there was some confusion during the City process, at the Planning Commission meetings, as to what grazable acres is. There is no definition for home site or wetlands within the City Code. Interpretation has been previously utilized. During the process of clearly defining those terms, many residents felt the ordinance would become more restrictive. There have been problems with the current ordinance in the past. Within the City Code, it is very clear that residents have the “right to farm” but there are rules and the City has to make sure the rules are clear to everyone.

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19 Mayor Carr read the current ordinance in relation to those rules. He stated the Planning Commission did a very good job with their review of the ordinance. The Planning Commission is a volunteer group that is working for all residents. He noted the current definition within the City Code relating to “yard” stating with that definition nobody within the City of Grant has grazable acres. The City has to fix that as that is not the intent.

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25 Mayor Carr read the comments that were made during the public hearing before the Planning Commission for the record and asked if anyone had any additional comments.

26
27
28 Mr. John DeWitt, resident, came forward and stated the current behavior is unacceptable and people have been treated in a very condescending way during this process.

29
30
31 Ms. Peggy VanDeriet, came forward and clarified that the Minnesota Administrative Rules only applies to commercial use relating to this issue.

32
33
34 Ms. Barbara Kelly, Lansing Avenue, came forward and indicated that since 1982, the yard area of a parcel refers to the area that is mowed around the house.

35
36
37 Mr. Paul McAhy, Jamaca Avenue, came forward and referred to the current feedlot definition and stated he it could be argued that it does not only apply to commercial uses.

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39
40 Mr. Keith Mueller, came forward and read a prepared statement that indicated he is very disturbed by the whole discussion on grazable acres. He stated this issue could easily divide the whole City and he believes the people have spoken. Although it is prudent to iron out issues to eliminate misinterpretations, the impact of this ordinance will affect residents and their livelihoods. He requested the Council put a stay on the proposed ordinance and work together with residents for a

1 mutually beneficial, acceptable ordinance. He read his recommendations on how to write the
2 ordinance.

3
4 Mr. Mark Ward, 103rd Street, came forward and stated the current ordinance is written much like
5 other rural communities ordinance. He stated it would be wise to table this because the City may end
6 up with a more restrictive ordinance even though that is not the intent.

7
8 Ms. Pam Arson, Jamaca Avenue, came forward and stated her issue is the feedlot reference and it
9 should be stated that it refers to commercial only. She indicated that an acre for the homestead area is
10 reasonable but the term “grazable” should be completely eliminated.

11
12 Mr. Steve Bohnen, came forward and stated that good comments have been provided so far this
13 evening. He stated he is not convinced the Mayor has heard them. He indicated it takes 8/10 of an
14 acre to recycle manure and he reviewed scientific facts relating to the number of horses a parcel can
15 support. He stated the current one per two has never been scientific but it has worked very well. He
16 inquired about any occasions in the past four years that wetlands have been taken out of the equation
17 relating to grazable acres. He stated that dividing the acreage by two is still very safe and does not
18 take anything else out to determine the number of horses that would be allowed.

19
20 Mr. Larry Leneux came forward and asked former Planning Commission Members to respond to the
21 issue.

22
23 Mr. Gene House came forward and stated he has a lot of concern as do others that are present this
24 evening and the reason he left the Planning Commission is because the Mayor indicated to him that
25 he should vote like him and Council Member Hinseth regularly met with Planning Commissioner’s
26 prior to public meetings.

27
28 Mr. Loren Sederstrom came forward and suggested the term “grazable” be taken out of the language.
29 For six months out of the year no one has any grazable acres. Removing the term would simplify the
30 whole thing.

31
32 Ms. Christine Flug, 60th Street, came forward and stated the City of Grant should stay rural and
33 continue with a small government. When the grazable acres ordinance was applied in the year 2000
34 the term “dry” was not a part of the equation.

35
36 Mr. Joe Janero, Joliet Avenue, came forward and stated he does not want to see the rural nature of
37 Grant change. The City should not even consider changing workable rules unless there is a
38 compelling reason to do so. Excluding wetlands from grazable acres is inappropriate. The City of
39 Grant is a very unique area and no one wants it to change. Changes would cause more problems in
40 the long run.

41
42 **CITY PLANNER, ANGELA TORRES**

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44 **Ordinance No. 2009-18, Grazable Acres Ordinance Revision** - City Planner Torres reviewed the
45 proposed draft ordinance that was recommended from the Planning Commission.

1 **Council Member Fogelson moved to keep the current definition of the grazable acres ordinance**
2 **and not change it. Council Member Potter seconded the motion. Motion failed with Council**
3 **Member Hinseth, Huber and Mayor Carr voting nay.**

4
5 Mayor Carr stated many people do not think that reviewing the ordinance was done for a positive
6 reason. The term “dry” land is causing a problem within the City.

7
8 City Planner Torres explained how the MLCCS data is used and what it is used for. She stated the
9 Conservation District and Watersheds want wetlands protected. Watersheds do have the authority to
10 regulate the wetlands and she provided an example of what type of action they can take against a
11 property owner.

12
13 Council Member Potter stated the interpretation of the ordinance has changed over the years and
14 suggested the possibility of using “agricultural use” as opposed to “grazable”.

15
16 Council Member Fogelson suggested the definition be “agricultural use on acres that exclude wetland
17 other than types 1 and 2 and an additional acre excluded for the home site”.

18
19 Mayor Carr suggested agricultural use is defined as dry land exclusive of the home site and
20 commercial feedlots. Wetlands to be determined by MLCCS data along with ½ acre excluded for the
21 home site on 6 acres and under and 1 acre excluded for all parcels 6 acres and above.

22
23 After much discussion, the Council directed staff to draft a revised draft ordinance that states grazable
24 acres shall be defined as the area of the parcel or site that excludes the home site wetlands, other than
25 types 1 and 2 and wetlands less than ¼ acres. The home site shall be defined as the contiguous area
26 equal to ½ acre on 6 acres or less and equal to 1 acre on 6 or more acres.

27
28 The Council agreed the draft revised ordinance would be addressed at the February City Council
29 meeting as well as a public hearing to take comment on defining the term ‘home site’.

30
31 City Attorney Vivian stated the action at that meeting would include repealing the current ordinance,
32 consideration of a new ordinance and the public hearing. He indicated he would look into how many
33 time the term “grazable” is used within the City Code and if the Council may consider using
34 “agricultural use”.

35
36 Mayor Carr requested the process sheet that outlines how grazable acres are determined be redrafted
37 also.

38
39 **2009 YEAR END REVIEW, MAYOR CARR**

40
41 Mayor Carr reviewed the highlights of year 2009 noting the new City Council worked very well
42 together.

43
44 **STAFF REPORTS**

45

1 **Police Report, Deputy Breana Fry** - The December 2009 Police Report was provided to be placed
2 on file for review at City Hall.

3
4 **City Engineer, Diane Hankee**

5
6 **MS4 Annual Report** – City Engineer Hankee advised per the MS4 Permit, the City is required to
7 submit an annual report of activities to adhere to or work towards the implementation of the BMP's.
8 The annual report is due June 30, 2010 and will be presented to the Council at a future meeting.

9
10 The City Council directed the City Engineer to complete the MS4 Annual Report.

11
12 **Adoption of Amended Flood Plain, Ordinance No. 2010-20** – City Attorney Vivian stated the new
13 FEMA requirements regarding a Flood Plain Ordinance must be in place by February 14, 2010. He
14 stated a draft will be provided for review at the February City Council meeting.

15
16 **Staff Report** - The December 2009 Engineer's Report was provided to be placed on file for review.
17 She noted a petition regarding the paving of Jeffrey Boulevard was submitted to the City. She
18 provided the history of that project noting a feasibility report has been done. A quick review of the
19 petition indicates less than a 75% submittal. She suggested she contact the neighborhood liaison to
20 review the petition. She did indicate that the only way the project would work is if it included smaller
21 assessments for Rolling Oaks and Jody Avenue.

22
23 Ms. Lavonne Hessler came forward and stated she believes the assessments would be much higher
24 than previously indicated. She stated there are not 75% of residents that signed the petition.

25
26 Road Commissioner Hinseth stated he did review the petition and it does not appear to meet the 75%
27 threshold.

28
29 Mr. David Borth, Jody Avenue, came forward and stated he agrees that the petition is not valid and he
30 loves the gravel road and does not want it paved. Improvements that do not include paving would be
31 welcome.

32
33 The City Council directed the City Clerk to notify the neighborhood liaison and indicate that a valid
34 75% petition must be submitted for the City to move forward.

35
36 City Engineer Hankee reviewed the staff report noting a possible refund on North Ideal Avenue for
37 that paving project and explained the new Environmental Review Rule change.

38
39 **City Planner, Angela Torres**

40
41 **Resolution No. 2010-01, Summary Publication of Ordinance No. 2009-18** – City Planner Torres
42 advised Resolution No. 2010 – 01 should be tabled to the February City Council meeting.

43
44 **Council Member Huber moved to table Resolution No. 2010-01 to the February City Council**
45 **meeting. Council Member Hinseth seconded the motion. Motion carried unanimously.**

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CUP Application, Clear Wire, Kimbro Avenue – City Planner Torres reviewed the application as well as provided the background of the request. She indicated a public hearing was held at the Planning Commission and they have recommended approval to the City Council based on the outlined conditions.

Mayor Carr moved to approve CUP application, Kimbro Avenue, as presented. Council Member Huber seconded the motion. Motion carried unanimously.

Staff Report - A report was provided for December 2009 City planning activities, to be placed on file for review.

City Attorney, Nick Vivian

Axdahl/Jacobs Update – City Attorney Vivian advised a recommendation will be made at the February City Council meeting regarding the Axdahl/Jacobs plat.

Staff Report – A report for December 2009 was provided to be placed on file for review. City Attorney Vivian noted

Building Inspector, Jack Kramer – A report was from Building Inspector Kramer was provided for December 2009 to be placed on file for review.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

2010 Meeting Calendar – Mayor Carr reviewed the proposed 2010 meeting dates.

The Council determined the November City Council meeting would be held on November 4, 2010, after the election.

2010 Appointment List – Mayor Carr reviewed the 2009 Appointment List and asked if there were any recommended changes.

Mayor Carr moved to extend the meeting for fifteen minutes to 10:15 p.m. Council Member Potter seconded the motion. Motion carried unanimously.

Ms. Joyce Welander, 83rd Street, came forward and stated many cities have more than one assistant Fire Marshall. She noted she is a trained State Fire Marshall and requested she be appointed as an assistant.

1 The Council agreed verbally that if the appointed Fire Marshall and/or assistant needed any help with
2 the assigned duties they could contact Ms. Welander.

3
4 Mayor Carr outlined the staff report that requested a change in the Cable Commission appointment.
5 He advised Council Member Huber would like to be appointed in place of Karen Gochberg who is no
6 longer a resident of Grant.

7
8 The Council agreed that Council Member Huber would be appointed as the City of Grant Cable
9 Commissioner.

10
11 **Mayor Carr moved to approve the 2010 Appointment List, as amended. Council Member
12 Hinseth seconded the motion. Motion carried with Council Member Huber abstaining.**

13
14 **Ordinance No. 2010- 19, 2010 Fee Schedule** – Mayor Carr referred to the 2009 Fee Schedule and
15 inquired about any changes to the proposed 2010 Fee Schedule.

16
17 Staff advised the only change to the fee schedule was for requested copies at the City Office. Staff
18 indicated there were no other recommended changes to the fee schedule.

19
20 City Attorney Vivian suggested a new fee for wetland determinations for property owners be added at
21 an amount of \$75.00.

22
23 **Council Member Fogelson moved to approve the Ordinance No. 2010 – 19, as amended.
24 Council Member Huber seconded the motion. Motion carried unanimously.**

25
26 **Mayor Carr moved to extend the meeting another fifteen minutes. Council Member Fogelson
27 seconded the motion. Motion carried unanimously.**

28
29 **Annual CUP Review List for 2010** – Mayor Carr asked for recommendations on any CUP reviews
30 that should be made in 2010.

31
32 The Council reviewed the list and discussed CUP’s that should possibly be reviewed in 2010. The
33 Council agreed that the following CUP’s would be reviewed in 2010:

34
35 Craig And Marcia Dewolf & American Tower, Pine Shores/Cedar Ridge, ISD #832,
36 Expansion of Athletic Fields, Spring PCS Monopole, 60th Street North, Tristar
37 Communications Tower, 8380 Kimbro Avenue

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39
40 **Mayor Carr moved to extend the meeting to 10:40 p.m. Council Member Fogelson seconded
41 the motion. Motion carried unanimously.**

42
43 **Council Member Huber moved to approve the 2010 CUP reviews as outlined by the Council.
44 Mayor Carr seconded the motion. Motion carried with Council Member Hinseth and Potter
45 voting nay.**

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Video Technician Wage, Mayor Carr – Mayor Carr reviewed the staff report that recommended a wage increase for the video technician.

Council Member Fogelson moved to approve the Video Technician Wage, as presented. Council Member Potter seconded the motion. Motion carried unanimously.

City Clerk Wage, Mayor Carr – Mayor Carr reviewed the staff report that outlined a potential wage increase for the City Clerk.

Council Member Hinseth indicated that he spoke with a number of residents and the unanimous opinion was that Kim Points is the best Clerk Grant has had for many years.

Council Member Fogelson moved to approve the City Clerk Wage, as presented. Council Member Huber seconded the motion. Motion carried unanimously.

DISCUSSION ITEMS

City Council Reports:

Council Member Huber requested newsletter articles for the spring edition of the City newsletter.

Council Member Fogelson advised he would be attending the annual Metropolitan Council meeting.

Road Commissioner Hinseth stated he was asked to mention to residents and their contractors that are clearing driveways to please make sure they clear the roadway of their snow debris when clearing is complete.

Mayor Carr moved to extend the meeting to 11:00 p.m. Council Member Hinseth seconded the motion. Motion carried unanimously.

CLOSED SESSION FOR THE PURPOSE OF CONFERRING WITH LEGAL COUNSEL AS PERMITTED BY THE ATTORNEY-CLIENT PRIVILEGE PURSUANT TO MINN.STAT. 13D.05 SUBD. 3 (d) ON THE FOLLOWING LEGAL MATTERS:

City of Grant V. Floyd’s Auto Sales

City of Grant v. Chris’ MP, Christine Flug and Daniel Flug

Council Member Huber moved to go into closed session at 10:32 p.m. Council Member Potter seconded the motion. Motion carried unanimously.

Council Member Potter moved to adjourn the closed session at 10:58 p.m. Council Member Fogelson seconded the motion. Motion carried unanimously.

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City Attorney Vivian advised a discussion was held regarding the Flug litigation and pending negotiations with Floyd’s. The Council directed staff to proceed as discussed during the closed session.

COMMUNITY CALENDAR JANUARY 6 THROUGH JANUARY 31, 2010:

City Office Closed, Martin Luther King, Jr. Day, Monday, January 18, 2010

Planning Commission Meeting, Tuesday, January 19, 2010, Town Hall, 7:00 p.m.

ADJOURN

There being no further business, Council Member Fogelson moved to adjourn at 11:00 p.m. Council Member Potter seconded the motion. Motion carried unanimously.

These minutes were considered and approved at the regular Council Meeting February 1, 2010.

Kim Points, City Clerk

Tom Carr, Mayor