

**MINUTES
CITY OF ISANTI
CITY COUNCIL
November 18, 2008**

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

The Pledge of Allegiance was recited.

Members Present: Mayor George Wimmer, Council Members Alan Duff, Jeffery Kolb, and Sue Larson.

Members Absent: Council Member Ralph Johnson

Staff Present: City Administrator Don Lorsung, Assistant City Administrator/City Clerk Irene Bauer, City Attorney Clark Joslin, Community Development Director Carla Vita, Finance Director Kristi Smith, City Planner Lisa Krause, Police Chief Ron Sager, Liquor Store Manager Shari Harker, and City Engineer Brad DeWolf.

Motion by Larson, second by Kolb to approve the agenda as amended. Motion carried unanimously.

E. Proclamations/Commendations/Certificate Awards

Mayor Wimmer announced the winners for the City Flag Contest. Community Pride Bank donated the cash prizes for the top four entries and are as follows:

- Ms. Stephanie Blake was present and was recognized by Mayor Wimmer for the Circle concept with the City motto. Greg Owens of Community Pride Bank presented Ms. Blake a \$50.00 check for her winning entry. Winners of the other winning entries were not present and named as follows:
- \$100 was given to the base drawing, which contained the parent and child concept as well as the season, as submitted by Carol Hazard.
- \$50 was given for the eagle concept as submitted by Maksim Gaubaly.
- Trudi Breuninger, JoAnn Welcome, and Anna Vick were recognized for the railroad tracks concept. These three individuals are employees of the City and they donated their combined winning of \$50 towards the Library fund.

A basic sketch using concepts from all four winning entries will be drawn up and will be further reviewed by the Park and Recreation Board.

F. Approve Minutes

Motion by Larson, second by Kolb to approve the November 5, 2008 Regular City Council Meeting and Closed City Council Meeting minutes as presented. Motion carried unanimously.

G. Citizens Input - There was none.

H. Announcements

Announcements were read.

I. Council Committee Reports

Councilmember Larson reported on the following meetings she had attended:

- Announced the Arena Board is meeting on this date, November 18, 2008.
- Attended the Library Planning workshop.
- Community Involvement Team
- Police Committee
- Downtown Committee

PUBLIC HEARINGS

1. 2008 Street and Utility Improvement Special Assessment

DeWolf provided an overview of the 2008 Street and Utility Improvement and the assessments to be assessed to the benefiting properties. The overview included the project area, the improvements of the project, and method of assessment. The total project cost was \$640,000 and 31.7% or \$202,597.23 is being assessed to the benefiting properties. Also reviewed was the assessment payment policy whereas assessments may be pre-paid in full by December 18, 2008 with no interest accrued; a one time partial prepayment may be made by December 18, 2008 with no interest accrued on the prepaid portion; after December 18, 2008, unpaid balances will be certified to the County Auditor and will be included on property taxes for a period of ten years at a rate of 5.75%.

DeWolf stated that the City does have a Deferred Assessment policy for residents age 65 or older and any party interested in the policy should contact City Hall.

Mayor Wimmer opened the public hearing at 7:13 p.m. Hearing no questions or comments, the public hearing was closed at 7:13 p.m.

a. Consider Resolution No. 2008-286, a Resolution Adopting Assessment for the 2008 Street and Utility Improvement Project.

Motion by Larson, second by Duff to approve Resolution No. 2008-286 as presented. Motion carried unanimously.

K. BUSINESS ITEMS:

1. Resolution No. 2008-287, a Resolution Relating to the \$1,275,000 General Obligation Improvement Bond, Series 2008A for the 2008 Street and 2007 SE Highway 65 Street and Utility Improvements; and Resolution No. 2008-288, a Resolution Relating to the \$570,000 General Obligation Improvement Bond, Series 2008B, a Water Revenue Bond for the East Highway 65 Improvement

Paul Donna, Northland Securities provided an overview of the two aforementioned bond issues. The first in the amount of \$1,275,000 provides funding for the 2008 Street and Utility Improvement and the 2007 SE Quadrant Street and Utility Improvement; and the second bond issue in the amount of \$570,000 provides funding for the Water Fund's portion of the East Hwy 65 Improvement.

Donna stated that the City currently has a bond rating of 'Baa1' and that the City bond rating will be further considered by Standard and Poors as he feels the City can obtain a rating in the 'A' category.

Based on a question on how the water fees affect the Water Fund and funding for the Water Treatment Plant, Lorsung stated that the bonding was factored in the new water rates for the water fund's portion of financing additional costs from the East Highway 65 Project; and that the Sewer Fund self funded the sewer portion of the project. The debt service as presented at this meeting was anticipated by City Auditor Steve McDonald and he recommended water rates that would ensure sufficient funding for this bond issue and for the Water Treatment Plant. This rate study was done in 2007 and the rate structure that was adopted by Council in 2007 was done in anticipation of the bond issue that was presented on this date.

Motion by Larson, second by Kolb to approve Resolution No. 2008-287 and Resolution No. 2008-288 as presented. Motion carried unanimously.

Motion by Larson, second by Kolb to approve the Financial Advisory Service Agreement by and between the City of Isanti and Northland Securities, Inc. Motion carried unanimously.

2. Resolution Approving Variance for a Side Yard Setback – 824 Cedar Street SW

Krause gave a staff report whereas Kenneth and Suzan Gehrke have requested a variation to the side yard setback requirement along the east side of their property at 824 Cedar Street SW from 10 feet to 8 feet, that would permit them to construct a twelve foot wide addition to their existing house.

The Planning Commission reviewed the request for a variance in a public hearing on November 12, 2008 and have recommended denial of the variance pending information from the Building Official that there are no life/safety issues and the proposed addition will meet building code.

Krause stated that this is not a building code issue. The Ordinance provides that a variance shall not be approved unless findings are made that failure to grant the variance would result in undue hardship on the applicant. One finding of fact would be if the alleged difficulty or hardship was caused by the Ordinance and that it has not been created by any persons having an interest in the parcel of land and is not a self-created hardship. Krause stated that the applicant has not demonstrated that the proposal meets the definition of the undue hardship; that the addition to the home could be constructed at a lesser width.

There was discussion on the matter and consensus that no undue hardship was found when considering the variance request.

Motion by Duff, second by Larson to deny the request for a variance as submitted by Kenneth and Suzan Gehrke as no undue hardship was found. Motion carried unanimously.

3. Areas of Reservation – New Zoning Ordinance

Krause gave a staff report whereas on October 21, 2008 the City Council approved the new Zoning Ordinance with the exception of two areas. One area is located on Railroad Avenue and is proposed to be zoned Central Business Transitional District from the previous Industrial District zoning; and the second area is located south of Oakwood Estates and Elmwood Apartments to the west of County Road 23 and proposed to be zoned 'R-3A' and 'R-3B' from the previous 'R-3' District zoning. This zoning is proposed based on the Future Land Use Map that was approved as a part of the new Comprehensive Plan.

At the October meeting, City Council tabled action on this matter relating to the zoning of the two aforementioned areas and sent this matter back to the Planning Commission for further review and recommendation. The Planning Commission have recommended that they further study potential amendments to the Comprehensive Plan as it relates to these two areas of reservation.

Industrial Properties along Railroad Avenue SE

The area of reservation on Railroad Avenue has residential zoning next to it and the VFW is located within the area that was zoned as an Industrial District. This Industrial District has been proposed to be zoned Central Business Transitional District and this new zoning was designated within the Land Use Plan of the adopted Comprehensive Plan.

At the Planning Commission meeting there was discussion on zoning in this area that would allow for a property to be zoned Industrial, with the balance of the current District to be zoned Central Business Transitional District. Krause stated that this is considered 'spot zoning' and that it is illegal to spot zone and another solution should be considered.

Bruce Yerigan – 27585 University Avenue – was present for the discussion relating to the area of reservation located on Railroad Avenue. Mr. Yerigan owns property in the subject area and operates an industrial business in this district.

Wimmer stated that the Central Business Transitional District that was zoned as a part of the Land Use Map was to promote expanded commercial development along Main Street and within the overall general downtown area as a part of the 'Central Business Transitional District'; that this area was zoned 'Central Business Transitional' to allow for future rail options in the City.

Yerigan stated that the building he is in on Railroad Avenue was built for an industrial use. To change the zoning will decrease the value of his building and his business now or in the future when he desires to sell.

There was much discussion on this matter. There was discussion relating to the current use of Yerigan's business and that as long as he operates the business for its current use, the zoning designation would not affect him; and that should he sell the business as its current use, that business could continue to operate as the use would be 'grandfathered' in. Yerigan argued that he wants to see his property stay in an Industrial District; that he should have the right to sell the building in the future for an industrial use, regardless of what that industrial use might be.

There was discussion on the proximity of the residential zoning and the VFW in close proximity to the industrial use. Yerigan stated that the residential properties came after his building was built.

Wimmer stated that the City went through a year and a half planning on the Comprehensive Plan and developing the Land Use Plan. Wimmer inquired of City Attorney Joslin as to what finding of fact the City must have should the City decide to revert the subject area back to industrial and how this might impact the City if other property owners that may have been similarly impacted request that they would also like their zoning changed.

Joslin stated that the process would involve looking at the same factors that were given consideration when the Comprehensive and Land Use Plan was adopted. That there would have to be a rational basis for the decisions that Council would be making based on examining all the facts.

There was discussion on allowing for a mixed use district; and if it could be done in such a way so as not to open the door whereas other property owners might want to do the same based on their situation.

Larson brought up the three options as proposed by the Planning Commission that included 1) re-zone to Industrial and leave the balance as a Mixed Use; 2) Amend text for the uses allowed in the Mixed Use District; and 3) Create a new district that would be a better fit for the Mixed Use of the neighborhood.

There was ongoing and lengthy discussion on this matter.

Motion by Kolb, second by Duff to table and send the zoning matter of the industrial properties along Railroad Avenue SE back to the Development Advisory Committee (DAC) for their review and recommendation. Motion carried unanimously.

Residential Property south of Oakwood Estates / Elmwood Apartments and to the west of County Road 23

Properties in the above stated location area was previously zoned 'R-3' and with the new Land Use Plan of the Comprehensive Plan, the zoning is proposed to be zoned 'R-3A' Low Density Multiple Family District and 'R-3B' Medium Density Multiple Family District. Oakwood Estates and Elmwood Apartments that are located to the north of the subject area were previously zoned 'R-4' Multiple Dwelling District and have retained that zoning.

It was noted that the use within the district has not changed and if a developer desires to come in with a higher density project, a re-zone request could be made.

Ted DeZurik, owner of Oakwood Estates was present and he is also the owner of two parcels of the subject properties under discussion. DeZurik expressed that he desires the subject properties are zoned 'R-4'. That to zone 'R-3A and B' does not allow him to place higher density housing on his property. DeZurik stated that the owners of all the

subject parcels desire the higher density zoning and would like to see the subject properties zoned 'R-4'.

There was discussion that the zoning in the subject area does allow for higher density and can transition from 'R-3A and B' to 'R-4'; that the zoning would be based on the development plan. High density housing would require review of the impact of drainage and traffic flow and the impact on surrounding residential properties.

DeZurik made the argument that because of the location, the area is ideal for 'R-4' zoning and that all the property owners in the area desire 'R-4' zoning. There was comment made that there is single family residential zoning abutting the 'R-3A and B' District. That the 'R-3A and B' zoning allows for transition to the 'R-4' zoning.

There was discussion on how notice was provided when the Comprehensive Plan was being updated whereas this notice was provided in the City Newsletter, on the Web Site, and in the local paper. Notices were sent out six weeks ago when the adoption of the Zoning Map was being considered and those notices were sent to the specific properties that were affected by the zoning changes; that those notices were sent out as a courtesy.

Joslin stated that the City is required to notify property owners by publication and as far as the letter to the affected property owners, there is a historic precedence to the City wanting to go above and beyond and therefore notified the property owners whose properties were being re-zoned. Joslin stated that DeZurik was present because he did receive a letter even though the City was not required to send it. Joslin stated that the City is not trying to do anything behind the backs of its citizens or tax payers; that the debate on the re-zoning is a part of the process. That the City welcomes property owners to come in and express their concerns when a matter affects their property.

There was some discussion on DeZurik bringing in a development plan. DeZurik stated that he is no longer a developer and that he is not aware that there is a plan in place for a current development. DeZurik stated that he would like to see the zoning changed to 'R-4'; and referenced 'spot' zoning if the zoning was retained at the current proposed zoning of 'R-3A and B'.

Joslin stated that the spot zoning does not apply in this area as an 'R-4' District is already adjacent to the proposed 'R-3A and B' zoning districts.

Motion by Kolb, second by Duff to retain the zoning on the subject properties at the 'R-3A' and 'R-3B' zoning as designated on the Land Use Plan of the Comprehensive Plan. Motion carried unanimously.

4. Consider Business Subsidy Project in Default

Vita gave a staff report whereas over the past months, City Council has been reviewing the Three Star Holdings property as it relates to their delinquent tax and assessments. At the November 5, 2008 City Council meeting, the City Council was informed that discussions were occurring with the Three Star Holding property concerning a business possibly locating at the site and tabled action on this item and requested it is brought back in two weeks for further consideration. Vita stated that the City has been informed by

Three Star Holdings realtor that the agreement is at the Attorney's office waiting for the signature of the business that desires to locate at the Three Star Holdings property; however, as of the time of this meeting, Vita stated that she has not been informed if the agreement has been signed.

Motion by Larson, second by Kolb to table action for two weeks on the Three Star Holdings, LLC property to allow time for the agreement to be signed and bring back for action at the December 2, 2008 City Council meeting. Motion carried unanimously.

5. Resolution No. 2008-289, a Resolution Approving Quote for Liquor Store Credit Card Processing and Authorize to Enter into a Contract

Smith gave a staff report whereas four quotes were received for liquor store credit card processing services. The two top quotes were considered and reviewed by the Finance Committee. The Finance Committee has recommended awarding the quote received from EVO Merchant Services.

Motion by Duff, second by Larson to approve Resolution No. 2008-289 as presented. Motion carried unanimously.

6. Review of Department Speed Checks on CSAH 5

Sager gave a staff report whereas the Police Department has been performing radar checks on County Road 5 on the west side of the City. The department has been operating its Lidar Radar near the Middle School and has had officers placed just west of the Rum River bridge on the north side of the roadway and adjacent to City property, to pull over offenders. This operation is part of the Safe and Sober Program that the department has been implementing. The Police Committee has reviewed this matter and has asked that the program be reviewed with the City Council.

Sager stated that the radar runs are done in two hour blocks and this activity does not take away from community policing.

No action was taken on this matter.

7. Regulation of Home Delivery of Alcohol

Sager gave a staff report whereas the City has received a request from Bob Bollenbeck, ECRDC Coordinator of the Towards Zero Deaths (TZD) Program, for the City of Isanti to consider regulation of home delivery of alcohol.

Sager stated that there is a State Statute in place and feels that the Statute provides the regulation needed relating to this matter. The Police Committee reviewed the request from Mr. Bollenbeck and has recommended that the City Council does not adopt the ordinance relating to the regulation on home delivery of alcohol and enforce this matter as regulated by State Statute.

Motion by Duff, second by Larson to not adopt the resolution relating to the regulation of home delivery of alcohol. Motion carried unanimously.

8. County Road 23 Speed Study

Sager gave a staff report whereas the Police Committee has met and discussed speed concerns on CSAH 23 and the possibility of lowering the speed limit in the urban areas. The City had discussed this in the past and decided to wait until the adjacent urban areas became more developed prior to requesting a re-study. The Committee discussed concerns with speeds on the roadway curves and a recent speed study by the Police Department. The Committee is recommending that at this time the City Council request a re-study of the road section.

There was general discussion on this matter and the concern that a study could result in an increase in the speed limit in that area. DeWolf stated that the request must be made through MNDOT. Sager stated that he could do a local study before the study is done by the State that would provide information that traffic was moving at the posted speed or if it was moving at a higher speed. Based on the outcome of a local study would be an indicator if the City should move forward with a MNDOT speed study.

Wimmer stated that he would like a report from City Engineer DeWolf as to what the possible outcome would be should a speed study be done on CSAH 23.

There was consensus of Council to direct that this is further reviewed with the City Engineer and to bring a plan of action back for Council consideration.

9. Resolutions Relating to Quote on City Owned Property for Crop Land – 4 Acre Parcel

Lorsung gave a staff report whereas in October, City Council awarded the bid for two separate parcels of city property for the purpose of leasing the property for crop farming to Mr. Wayne Calander for crop years 2009 and 2010. The property leased included a 4 acre parcel. Because the 4-acre parcel is land locked; the resolution provided that the 4-acre parcel lease to Mr. Calander was contingent that Mr. Calander arrange for access to the property. Mr. Calander has provided notice to the City that he is unable to access the property and has requested that he is released from that portion of his contract.

Mr. Craig Bjorklund has in the past leased the 4-acre parcel along with adjacent property owned by other property owners; Mr. Bjorklund did submit a bid for lease years 2009 and 2010 on this 4-acre parcel. Staff has contacted Mr. Craig Bjorklund to see if he is interested in leasing the 4-acre parcel and he did respond that he was. Mr. Bjorklund did request that he would have the right to cancel the contract with the City in the event that he would no longer have access to the 4-acre parcel or no longer leasing the greater share of the abutting parcels.

a. Resolution No. 2008-290, a Resolution Releasing Mr. Wayne Calander from Rental Obligations Relating to a 4-Acre Parcel for Crop Land

Motion by Larson, second by Duff to approve Resolution No. 2008-290 as presented. Motion carried unanimously.

b. Resolution No. 2008-291, a Resolution Authorizing and Approving the Contract with Mr. Craig Bjorklund for Crop Land for the Purpose of Crop Farming of Certain Property Owned by the City of Isanti

Motion by Larson, second by Duff to approve Resolution No. 2008-291 as presented.
Motion carried unanimously.

L. Consent Agenda

1. Approve Municipal Builders, Inc.'s Pay Estimate Request No. 4 in the amount of \$385,484.35 for Work Completed on the Water Treatment Facility Project
2. Approve C&L Excavating's Pay Estimate Request No. 1 in the amount of \$195,486.16 for Work Completed on the Fairway Greens Commercial Project
3. Accounts Payable in the Amounts of \$1,181,983.02 and Payroll in the Amount of \$66,770.54
4. Approval of October 14, 2008 Planning Commission Meeting Minutes
5. Approval of Custom Meats Landscaping Revisions
6. Approval of Reimbursement for Pro-Rated Amount for Canceled Liquor License
7. Approval of Letter of Understanding Between Isanti County Public Health Services and the City of Isanti relating to the Administration of Hepatitis B Vaccinations

Motion by Duff, second by Larson to approve the consent agenda as presented. Motion carried unanimously.

M. Other Communication

Other communication was reviewed as presented.

Adjournment

Motion by Duff, second by Kolb to adjourn. Motion passed unanimously.

Meeting adjourned at 9:06 p.m.

Respectfully Submitted,

Irene J. Bauer
Assistant City Administrator/City Clerk