

REGULAR MEETING COTTAGE GROVE CITY COUNCIL

January 21, 2004

OPEN FORUM – 7:15 p.m.

Open forum provides a person an opportunity to inform the Council of a problem or to request information related to City business not scheduled for Council action and on the Agenda. Mayor Shiely encouraged persons to limit their remarks to two (2) minutes per issue.

Present: Mayor Sandy Shiely
Council Member Cheryl Kohls
Council Member Pat Rice
Council Member Jim Wolcott
Council Member Mark Grossklaus

Also Present: Ryan Schroeder, City Administrator
Ron Hedberg, Finance Director
John McCool, Senior Planner
Tom Thompson, Consultant, City Engineer
John Mickelson, Public Safety Director
Les Burshten, Public Works Director
Corrine Thomson, Consultant, City Attorney

No one stepped forward to speak during Open Forum.

CALL TO ORDER

The City Council of the City of Cottage Grove, Washington County, Minnesota held a regular meeting on Wednesday, January 21, 2004, at the Cottage Grove City Hall, 7516 80th Street South. Mayor Sandy Shiely called the meeting to order at 7:30 p.m.

ROLL CALL

Present: Mayor Sandy Shiely
Council Member Cheryl Kohls
Council Member Pat Rice
Council Member Jim Wolcott
Council Member Mark Grossklaus

Also Present: Ryan Schroeder, City Administrator
Ron Hedberg, Finance Director
John McCool, Senior Planner
Tom Thompson, Consultant, City Engineer
John Mickelson, Public Safety Director

Les Burshten, Public Works Director
Corrine Thomson, Consultant, City Attorney

Mayor Shiely presided over the meeting.

ADOPTION OF AGENDA

Mayor Shiely stated that there is an addition to the agenda. Deputy Fire Chief Dennis Leonard and Firefighter Donna Honeyman will present the evaluation results from the October 4, 2003 Emergency Exercise.

MOTION BY WOLCOTT, SECONDED BY RICE, TO APPROVE THE AGENDA AS AMENDED. MOTION CARRIED 5-0.

APPOINTMENTS AND PRESENTATIONS

A. PRESENTATIONS

1. Big Brothers/Big Sisters Program

Scot Johnson, Match Coordinator for Big Brothers Big Sisters, thanked the Council for their time, stating that they are celebrating their 100-year anniversary, matching children with adults since 1920. He stated that there are three main programs: Community Based Mentoring, Club Connect for children waiting for community-based mentoring, and a school-based mentoring program. Johnson indicated that the school-based mentoring program has been in existence for five years noting that they recently received a grant for Crestview Elementary and Lake Elmo Elementary. He provided the Council with a brief overview of the each program including the referral and matching process, the time commitment, age requirements, schedule flexibility, and activities. Johnson commented that they are always looking for volunteers noting that the program not only benefits the children, it also benefits the adults who volunteer too. He encouraged the community to consider volunteering for the program. He said that anyone who would like information about the program could contact him directly at 612-789-2449 or visit their website at www.bigstwincities.org.

2. Fire Department – October 4, 2003 Emergency Exercise

Mayor Shiely stated that on October 4, 2003, the City of Cottage Grove participated in an emergency exercise drill and Deputy Chief Dennis Leonard and Firefighter Donna Honeyman from the Cottage Grove Fire Department are here to present the results of the exercise.

Firefighter Donna Honeyman stated that approximately one year ago they were approached with a proposal to put together and design a plan that would test their response to an emergency. She provided the Council with an overview of the exercise and explained that the exercise involved the simulation of a train derailment with a chemical spill and their ability to determine how to effectively respond and notify the community. She stated that the exercise included 275 participants from the City of Cottage Grove, City of Woodbury, Onex,

and Canadian Pacific Railway. Planning for the exercise began in January 2003 with an intensive, weeklong training session at the FEMA Emergency Management Institute. She noted that the biggest thing they wanted to learn was whether they could manage a situation of this magnitude, and through this process, they found that they could. She stated that with the help of Onex and Canadian Pacific, they developed the team and determined what was needed for the exercise. The process identified 17 objectives adding that 15 of those objectives were met. She indicated that the learning process was a huge success noting that they were able to exercise their objectives, even with so much to accomplish. She reviewed the lessons learned noting that through the process they learned that they should work to limit the information that is released before the exercise noting that they would utilize an internal representative for the next time. She provided the Council with an overview of the EOC (Emergency Operation Center) and its functions stating that they need to redefine the roles for EOC staff and reevaluate the layout of the center itself to configure it for optimal performance. She stated that they should reevaluate and update the communication systems and channels. She thanked the Council and all of the other organizations that were involved for their assistance and support.

Deputy Fire Chief Leonard stated that one of the big things they see and find in doing an exercise of this nature is that communication can be a problem. He indicated that this is one of those items that is always addressed and modified. He referenced the evaluation packet provided to Council for their review stating that they have put together a Subcommittee to work through the issues identified from the exercise and provide follow-ups throughout the year.

Firefighter Honeyman stated that one of the incident mitigation lessons that they learned showed that they can interact well with outside agencies and that they worked well as a team. She stated that they are very confident that in the event of an actual emergency they would function well and efficiently. She noted that communication is a concern and would be reviewed.

Deputy Fire Chief Leonard provided the Council with an overview of the process noting that the information provided in the evaluation packet came from all of the evaluations received by the City, County and State evaluators. He explained that any City or unit of Government that receives a performance grant is required to follow a four-year cycle for emergency exercises. He stated that they would be involved in some form of exercise for the next four years in order to meet this mandate. He reviewed the Subcommittee responsibilities and indicated that they would identify what is required to improve the communications and work with him and Firefighter Honeyman to resolve the issues.

Firefighter Honeyman reviewed the information content of the evaluation packet with Council. She stated that the State of Minnesota's evaluation report was submitted in December and noted that the report also includes the time and action calendar. She stated that copies of the evaluation have also been forwarded to Onex and Canadian Pacific. She noted that Onex was so impressed with the evaluation packet that they have asked their permission to utilize the format for future reports. She stated that the calendar is filed with the Federal Government noting that they do keep track of what they are doing. She stated that the

Prairie Island drill is due this year in addition to a functional exercise that would be scheduled in 2005.

Deputy Chief Leonard stated that this has been a very positive experience for both him and Firefighter Honeyman. He indicated that the feedback they have received has been very positive noting that the experience itself has also been a very positive one for the Fire Department. He stated that they have several items to work on throughout the year including training, updates, communication, and upgrades and added that 'Learning' is what it was all about.

Firefighter Honeyman stated that Channel 16 was also on site throughout the exercise and raw video footage is available for viewing.

Council Member Kohls noted the communications issue and asked for further clarification on the equipment they use to communicate and how they communicate with the various agencies, locations, and people involved.

Deputy Chief Leonard explained that the issues are a combination of how they communicate, the equipment needed in the EOC and the process they use to communicate with the outside agencies and locations. He explained that they should find something other than cell phones to rely on and that they need to identify various frequencies that would be available during a disaster. He noted that typically communication is the number one item identified as an issue adding that communication is always in the process of being tweaked in an effort to keep up with technology.

Council Member Kohls stated that the amount of communication was unreal and shared her impressions of the exercise with Council noting that the experience seemed so real. She acknowledged the true need for good communication. She stated that everyone did a phenomenal job adding that this will be one of her most memorable experiences.

Mayor Shiely stated that in her years as Mayor this is probably the most beneficial thing she has ever taken part in and wanted them to know how much it was appreciated. She noted that they did a fantastic job adding that she is sure now that they are as safe as a City could be and thanked them, on behalf of the Council, for all of their efforts and hard work.

APPROVAL OF MINUTES

A. December 3, 2003 Regular Meeting

Mayor Shiely stated that the minutes stand approved as presented.

B. December 9, 2003 Special Meeting.

Mayor Shiely stated that the minutes stand approved as presented.

C. December 17, 2003 Special Meeting.

Mayor Shiely stated that the minutes stand approved as presented.

D. December 17, 2003 Regular Meeting.

Mayor Shiely stated that the minutes stand approved as presented.

CONSENT CALENDAR

Mayor Shiely stated that Item 4L, a donation from Merchants Bank, has been added to the Consent Calendar.

MOTION BY GROSSKLAUS, SECONDED BY RICE, TO:

- A. ACCEPT AND PLACE ON FILE THE FOLLOWING MINUTES:
 - I. ECONOMIC DEVELOPMENT AUTHORITY OF NOVEMBER 18, 2003 AND DECEMBER 9, 2003.
 - II. HUMAN SERVICES/HUMAN RIGHTS COMMISSION FOR 2003.
 - III. PUBLIC WORKS COMMISSION OF NOVEMBER 10, 2003.
- B. APPROVE THE RATE SCHEDULE FOR ENGINEERING SERVICES FROM BONESTROO, ROSENE, ANDERLIK, AND ASSOCIATES FOR 2004.
- C. APPOINT MARY HAKEEM TO THE HUMAN RIGHTS/SERVICES COMMISSION YOUTH SEAT.
- D. ADOPT **RESOLUTION NO. 04-006** AUTHORIZING ENTRANCE INTO MN/DOT AGREEMENT NO. 85942 FOR TREE-LOSS MITIGATION AT COTTAGE GROVE PARK AND RIDE SITE.
- E. APPROVE CITY COUNCIL GOALS FOR 2004.
- F. RECEIVE RESPONSE TO CITIZEN EDITORIAL PUBLISHED IN THE SOUTH WASHINGTON COUNTY BULLETIN CONCERNING ACCESSIBILITY AT THE NEW PARK AND RIDE.
- G. AUTHORIZE GREY CLOUD ELEMENTARY PTA TO CONDUCT A SINGLE-OCCASION RAFFLE ON APRIL 23, 2004 AND DENY THE REQUEST FOR WAIVER OF THE \$100.00 GAMBLING PERMIT FEE.
- H. ADOPT **ORDINANCE NO. 755** AN ORDINANCE AMENDING SECTION 5-4-4 PARAGRAPH D.1 OF THE COTTAGE GROVE CITY CODE RELATING TO MULTIPLE ANIMAL LICENSES.
- I. APPROVE THE ACTIONS OF THE ECONOMIC DEVELOPMENT AUTHORITY ALLOWING FOR SALE AND SEVERANCE OF THE WELLS-FARGO/MAINSTREET BANK PARCEL FROM THE GROVE-RAINBOW PROPERTY AND ADOPT **RESOLUTION NO. 04-007** APPROVING A MODIFIED ASSESSMENT AGREEMENT REGARDING LOT 1, BLOCK 1, GROVE PLAZA 2ND ADDITION.
- J. ADOPT **RESOLUTION NO. 04-008** APPROVING THE CONSTRUCTION PLANS AND SPECIFICATIONS FOR THE WELL #11 PUMPING FACILITY AND SETTING A BID DATE OF FEBRUARY 12, 2004 AT 11:00 A.M.
- K. APPROVE THE APPLICATION OF SCOTT SERFLING FOR A MULTIPLE ANIMAL LICENSE FOR 2004 TO MAINTAIN FOUR (4) DOGS AT HIS RESIDENCE AT 88149

76TH STREET SOUTH CONTINGENT ON COMPLIANCE WITH THE FOUR (4) ITEMS OUTLINED IN CITY CLERK'S REPORT.

- L. ADOPT **RESOLUTION NO. 04-009** ACCEPTING A DONATION FROM MERCHANTS BANK FOR THE COTTAGE GROVE RECREATION DEPARTMENT AND TEENS IN ACTION'S MEDALLION HUNT.

MOTION CARRIED 5-0.

RESPONSE TO PREVIOUSLY RAISED OPEN FORUM ISSUES

- A. Response to Darlene Bradsteen Regarding Adult Foster Home at 9032 Jareau Avenue South.

Mayor Shiely clarified that a letter of response was sent to Ms. Bradsteen. Senior Planner McCool confirmed that a letter of response was sent noting that she did not respond.

PUBLIC HEARINGS

NONE

BID AWARDS

- A. Consider Awarding the Bid for Replacement of the River Oaks Golf Shop Clubhouse Furnace.

Mayor Shiely reviewed the bid stating that during a routine inspection of the furnace located in the Golf Shop Clubhouse, a service inspector notified staff of rusting of the existing furnace. She stated that it was also noted that the existing furnace might last the remainder of 2004. A dangerous situation could result in carbon monoxide poisoning. She stated that they received bids for the replacement of the furnace and that after review of the bids, Staff is recommending awarding the bid to O'Connor Plumbing and Heating.

MOTION BY WOLCOTT, SECONDED BY KOHLS, TO AWARD THE BID TO O'CONNOR PLUMBING AND HEATING FOR THE PURCHASE AND INSTALLATION OF A FURNACE IN THE RIVER OAKS GOLF SHOP CLUBBHOUSE FOR \$5,965.00 (INCLUDES SALES TAX). MOTION CARRIED 5-0.

UNFINISHED AND NEW BUSINESS

- A. Consider a Variance to Title 11-15-8C(1), Structure Setback from Bluff Line, which requires a 100-foot Minimum Structure Setback from a Bluff Line, to Allow Construction of a Single-Family Dwelling Closer than 100 Feet from the Bluff Line at 7641-113th Street South (Jay and Suelin Werner)

Mayor Shiely indicated that the Council has considered this request before noting that at a previous meeting, the Council did grant a variance for the density and requested that the

application be returned to the Planning Commission for further discussion and review. She stated that the request has come back from the Planning Commission with their recommendation for denial. She asked Senior Planner McCool to clarify further.

Senior Planner McCool stated that the Planning Commission did recommend denial in a 4-3 vote. He explained that as part of the planning office review, he had provided the Planning Commission with a recommendation that the house structure have a setback of 31 feet. He noted that some of the Planning Commissioners felt that this was a reasonable compromise.

Mayor Shiely noted that there were four (4) votes to deny and three (3) to approve and asked if the Commissioners were in favor of the compromise or the 18-foot. Senior Planner McCool stated that there was a mixture of opinions.

Senior Planner McCool stated that the Werners provided an aerial topographical photograph of the property and a site plan that shows the proposed location of the house on the property. He stated that Staff transposed the location of the house and reviewed the changes with Council. He explained that by scaling the proposal of the site plan that the setback would be approximately 18 feet from the bluff line. He stated that the homeowner would prefer to place the house on the property as originally proposed and is not willing to change the location. He explained that the City Code deals with property platted before April 1985. He stated that Staff has provided a draft of two resolutions. The first, as recommended by the Planning Commission, to deny the application, and the second, a resolution approving the application with the requirement of 31-foot setback based on the height of building in addition, any accessory structure would have a minimum setback of 20 feet from the bluff elevation.

Council Member Kohls asked for clarification of the maximum height requirement for an accessory building. Senior Planner McCool clarified that the maximum height for an accessory structure is 18 feet.

Council Member Kohls clarified the applicant is not satisfied with the recommended 31-foot setback and wants the 18 feet.

Mr. Werner clarified that it is not that he is not in favor of the 31-foot setback; he would vastly prefer the 18-feet. He explained that his major reason to build on the lot is for the view and by placing it back at 31 feet reduces the view. He stated that he has lived here since 1965 and loves the view. He agreed that there was notification in the Red River Act that if he did not plat the land at that time that he would have to apply for a variance. He stated that he did do the legal split in 1986 and was told at that time that it was not a buildable site because City water and sewer were not available at that time. He explained that by definition it is now a buildable site subject to the setback requirements. He stated that the 100-foot setback is unrealistic in view of the locations of the other homes in the area. He clarified that his request is to be allowed to build, preferably, with the 18-foot setback. He stated that it is not in conflict with the intent of the River Corridor Act adding that the property is setback enough that it is invisible from the channel. He stated that it would only be visible to a few anglers that could manage to get into the backwater areas, as it is a very shallow area.

Council Member Grossklaus stated that his main concern is in creating precedence and that it makes the land so valuable that people would begin to remove the current homes to build larger homes. He expressed concerns about the potential loss of trees and the possibility that it would begin a stream of residents who want to rebuild.

Mayor Shiely agreed with Council Member Grossklaus' concerns about setting a precedent. She referenced discussion and questions that were raised regarding previous variances granted in the corridor stating that she has been involved with the corridor since 1991 noting that all applications for variances in the river corridor area has been for density. She noted that the river corridor line goes back to 110th Street stating that the variation of density in this area would not affect as much. She stated that the only setback variance request she was involved in was at the golf course where they wanted to install a swimming pool. She agreed that this could establish a precedent and asked if they have granted any setback variances in the River Acres area.

Senior Planner McCool clarified that since 1984 the City has received nine (9) applications.

Council Member Wolcott referenced the discussion about tree removal and asked if this has been resolved. Senior Planner McCool explained that one of the stipulations is that there be no disturbance of the vegetation in the area between the bluff line and the elevation. He stated that there is a large amount of sumac that the applicant wants to remove but it has been stipulated that the sumac cannot be removed.

Council Member Wolcott asked what could be done if the sumac is removed. Senior Planner McCool stated that it would become a code enforcement issue and a penalty could be applied. He stated that they could secure a financial guarantee in the event that removal did occur that would cover the costs to replant.

Council Member Wolcott requested that the penalty be included as a part of the motion as a condition in the event that vegetation is removed.

City Attorney Thomson clarified that unless they obtain a financial guarantee now, before approval of the variance, their only option would be to pursue a criminal violation or citation in the event that any vegetation is removed.

Council Member Kohls asked if they would be able to determine a dollar amount that could be included.

Council Member Wolcott agreed stating that this is what he is asking. He stated that he wants to be sure that everyone understands that there is a penalty that has been identified and would be enforced.

City Attorney Thomson explained that they have two options, one would be to require the amount to be posted now, or two, they could require it as a condition that the party enter into an agreement that could be recorded against the property that would provide that no trees be

removed and the City could reclaim via small claims court. She stated that the second option would be more practical.

Council Member Kohls asked if this condition would follow the property to the next owner. City Attorney Thomson clarified that this would be the objective noting that it is a declaration that states a restriction on the property is run by the City and carries a monetary obligation to cover costs for replacement of vegetation.

Council Member Wolcott stated that he is willing to support a variance at 31-feet but wants a stipulation included that no vegetation is removed. He stated that his preference would be to have something in writing and recorded so that all owners would have to abide by the restriction.

City Attorney Thomson suggested providing it in the resolution that the applicant has a restriction on the property that no vegetation can be removed. She stated that she would prepare the language to go in place of paragraph eight (8).

Mr. Werner noted that there is a provision in the corridor packet that regulates what can be done with vegetation along the bluff line.

Council Member Wolcott clarified that this condition would restrict removal of vegetation from a certain level of the bluff line. Mr. Werner expressed concerns that if the sumac spreads to his yard and he removes it from his yard that he could be in violation.

Council Member Wolcott noted that in order to give the variance and have a comfort that the vegetation is protected the stipulation would have to be included in the resolution. Council Member Kohls agreed.

Mr. Werner clarified that his concerns are with the buckthorn, sumac, and weed vegetation.

Council Member Kohls stated they should have some documentation that would clarify the good vegetation from the bad noting that they do not want the buckthorn. She stated that her concern is in preserving the trees.

City Attorney Thomson explained that the applicant must record a restriction against the property in favor of the City in a format approved by the City Attorney. She clarified that no vegetation other than noxious vegetation can be disturbed. She stated that when she approves the restriction that is drafted she could then deal with the issues raised by Council.

Council Member Kohls stated that this would be a workable solution.

Mayor Shiely reviewed her concerns noting that she does not see the view as a hardship.

MOTION BY KOHLS, SECONDED BY WOLCOTT, TO ADOPT **RESOLUTION NO. 04-010** GRANTING A VARIANCE TO TITLE 11-15-8C(1) TO ALLOW CONSTRUCTION OF A HOUSE LESS THAN 100 FEET FROM THE MISSISSIPPI RIVER BLUFF LINE AT 7641-

113TH STREET SOUTH AND TO ALLOW THEM TO BUILD AT 31-FEET. MOTION CARRIED 3-2 (SHIELY/GROSSKLAUS – NAY)

MOTION BY KOHLS, SECONDED BY WOLCOTT, TO APPROVE AN AMENDMENT TO ITEM NUMBER 8 REGARDING REMOVAL OF VEGETATION AND THAT THE CITY ATTORNEY AND MR. WERNER WILL WORK OUT THE DETAILS. MOTION CARRIED 4-1 (GROSSKLAUS – NAY)

B. Consider Application of Tennis Brothers Sanitation LLC for a Residential Dwelling Solid Waste License.

Public Works Director Les Burshten stated the City received an application from Tennis Brothers Sanitation, LLC, for a residential dwelling solid waste license. He stated that the application was presented to the City Council at the January 7, 2004 meeting and that Council directed the Public Works Commission to review and make a recommendation regarding the license. He stated that the Public Works Commission discussed the application during the meeting held on January 12, 2004. City Clerk Caron Stransky attended the meeting and answered questions from the Commission Members regarding compliance of the newly formed company. He stated that Greg and William Tennis, the owners of Tennis Brothers Sanitation were also present to answer questions. He stated that upon review, the Public Works Commission made a motion to unanimously recommend approval of the residential dwelling solid waste license application from Tennis Brothers Sanitation LLC.

William Tennis acknowledged that they attended the Public Works Commission meeting noting that the Commission is satisfied with their application.

Gary Boyum, Municipal Marketing Manager, Waste Management, stated that he is the only competitor licensed in Cottage Grove and that as a competitor, he believes that good competition is a healthy business environment and feels that if the Council does not approve the application that the City is restricting fair competition within the City of Cottage Grove.

Mayor Shiely thanked the Public Works Commission for their work on this request. She stated that she has no objection to this proposal noting that she has been a customer of Tennis for over 30 years. She stated that they have a long record of doing a lot of good in City and for the Community. She noted that the legal review has clarified that a second license to the same entity does not pose any legal issues or concerns. She stated that the City appreciates the donations the company has made to the City over the years noting that Council must be careful not to make their decisions based on donations made to the City but based on the level of service provided to the taxpayers. She noted that at one time in Cottage Grove they had approximately nine residential haulers adding that they had to lower the number due to the wear and tear on the City roads. She stated that the City also realizes that they must give the citizens a choice and agreed that competition in the City is fair and healthy. She stated that her only concern is that the spirit of competition could be lost. She stated that she has no problem with a third license being filled by a new company created by Tennis. She proposed that the City make a fourth license available for trash hauling in Cottage Grove noting that the license would probably continue to remain open. She noted

that the new company would not increase the number of vehicles on the road and does not see this as an issue. She stated that this is a reasonable request and would like to direct staff to prepare an ordinance amendment to send down to Public Works for review.

Council Member Wolcott noted that he was involved with Public Works when they had a number of haulers in Cottage Grove. He clarified that the intent was to limit the number of haulers due to potential damage to streets. He explained that the City was going through a pavement management project at the time and did not want to have to redo the streets. He stated that when this ordinance was proposed and approved it stated that the City would not allow more than three haulers. He noted that the new company would not be competing for routes and would not be adding additional trucks. He noted that Greg & Willie own Tennis Sanitation and their children are starting the new company. He noted that they would also have presence in other cities. He stated that he would be against a fourth license and would not support adding another license to the City.

MOTION BY KOHLS, SECONDED BY RICE, TO AUTHORIZE ISSUANCE OF A RESIDENTIAL SOLID WASTE LICENSE TO TENNIS BROTHERS SANITATION, LLC., FOR THE PERIOD ENDING DECEMBER 31, 2004. MOTION CARRIED 5-0.

RESPONSE TO PREVIOUSLY RAISED COUNCIL COMMENTS AND REQUESTS

Council Member Kohls wanted to make everyone aware that the Public Safety, Health and Welfare Commission is sponsoring a blood drive on February 11, 2004 at Fire Station 1 located at 80th and Grange Blvd. She stated it would be held from 2:00 p.m. to 7:00 p.m., and encouraged the community to come out and volunteer to give blood.

COUNCIL COMMENTS AND REQUESTS - NONE

PAY BILLS

MOTION BY WOLCOTT, SECONDED BY RICE, TO APPROVE PAYMENT OF CHECK NUMBERS 132766 THROUGH 132962 TOTALING \$1,189,355.56. (CHECKS 132766 – 132791 FOR \$184,483.44 ISSUED BEFORE COUNCIL APPROVAL.) MOTION CARRIED 5-0.

WORKSHOP SESSION – OPEN - NONE

WORKSHOP SESSION – CLOSED - NONE

ADJOURNMENT

MOTION BY RICE, SECONDED BY GROSSKLAUS, TO ADJOURN THE MEETING AT 8:45 P.M. MOTION CARRIED 5-0.

Respectfully submitted,

Bonita Sullivan
Timesavers Off Site Secretarial, Inc.