

REGULAR MEETING COTTAGE GROVE CITY COUNCIL

November 16, 2005

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 Myron Bailey
Council Member Karla Bigham
Council Member Mark Grossklaus
Council Member Pat Rice

Also Present: Ryan Schroeder, City Administrator
Ron Hedberg, Finance and Administrative Services Director
Howard Blin, Community Development Director
Michael Zurbey, Acting Public Safety Director
Les Burshten, Public Works Director
Corrine Thomson, 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, November 16, 2005, 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 Myron Bailey
Council Member Karla Bigham
Council Member Mark Grossklaus
Council Member Pat Rice

Also Present: Ryan Schroeder, City Administrator
Ron Hedberg, Finance and Administrative Services Director
Howard Blin, Community Development Director
Michael Zurbey, Acting Public Safety Director
Les Burshten, Public Works Director
Corrine Thomson, City Attorney

ADOPTION OF AGENDA

MOTION BY RICE, SECONDED BY BIGHAM, TO APPROVE THE AGENDA AS PRESENTED. MOTION CARRIED 5-0.

PRESENTATIONS

NONE

APPROVAL OF MINUTES

A. September 21, 2005 Regular Meeting

Mayor Shiely stated that the minutes stand approved as presented.

B. October 3, 2005 Special Meeting

Mayor Shiely stated that the minutes stand approved as presented.

CONSENT CALENDAR

Council Member Grossklaus asked to pull Item 4D. He explained that Item 4D deals with selling park land adding that he is against the selling of park land and has voted against this before. He further explained that he would like to remain consistent and asked for a separate vote.

D. Consider Adopting a Resolution Approving a Simple Lot Division to Subdivide a 2.88 Parcel known as Pine Coulee Park, Located at 11821 Lofton Avenue South.

MOTION BY RICE, SECOND BY BAILEY, TO ADOPT **RESOLUTION NO. 05-192** A RESOLUTION APPROVING A SIMPLE LOT DIVISION TO SUBDIVIDE A 2.88-ACRE PARCEL OF LAND AT 11827 LOFTON AVENUE SOUTH. MOTION CARRIED 4-1 (1 NAY-GROSSKLAUS).

Council Member Bigham pulled Item 4G and asked Finance and Administrative Services Director Hedberg to clarify for the public what this item involves.

Finance and Administrative Services Director Hedberg explained that Item 4G relates to the certification process for delinquent utility accounts. He further explained that 190 accounts were delinquent on their utility service bills noting that all of the delinquent accounts relate to properties that incurred the bill before the current owner. He stated that each year the City goes through a certification process noting that the statutes allow the City to certify for collection, along with property taxes, any unpaid utility bills.

Finance and Administrative Services Director Hedberg stated that the City became more

assertive this year in their collection process noting that the process began last month with 900 accounts receiving the certification letters. He stated that Staff received immediate feedback from some of the property owners explaining that the delinquent bill relates back to prior owners. He reviewed the criteria used with Council stating that the City would continue to move forward with the certification process for the delinquent accounts from 2004 because they are not that old and would have been assessed anyway adding that these bills all relate to bills the City did not certify in the past.

Finance and Administrative Services Director Hedberg explained that there are two groups involved in this process, the first addresses a threshold that was previously used where accounts with less than a \$100.00 balance were not included in the certification list; the second group relates back to the issue of multiple owners and explained that the recommendation would be to generate a final bill when the property owner moves out and forward the final bill to the prior owner. He stated that as soon as the bill goes delinquent, which is 35 days after being mailed, the account would transfer to the new property owner's bill. He explained that this would make it easier to track and would help to eliminate the ability of the bills falling through the cracks. He indicated that this would generate an increase in calls from the new property owners noting that the benefit would be that the delinquent bills would be addressed sooner than through the annual certification process at the end of the year.

Finance and Administrative Services Director Hedberg stated that the action Staff is asking for is the approval to remove 190 accounts from the certification process and not certify for collection with the current owners' property taxes. He explained that the City would continue to pursue collection from the prior owners, whether through the collection process or through the State Revenue Recapture Program. He assured Council that Staff has made every attempt to contact the previous owners noting that those that were found did receive copies of the certification letter. He indicated that some of the previous owners have been in contact and are working with City Staff to resolve the delinquency.

City Administrator Schroeder referenced the statement made regarding the transfer of the delinquent portion of the old bill to the current property owner stating that this is a system that is commonly used throughout the Twin Cities. He explained that this would also alert the new owner to contact the Title Company and have the Title Company collect from the prior owner. He assured Council that it is not the expectation that the new owner would pay the delinquent bill.

MOTION BY BAILEY, SECONDED BY GROSSKLAUS, TO:

- A. ACCEPT AND PLACE ON FILE THE FOLLOWING MINUTES:
 - i. NONE.
- B. APPROVE CHANGE ORDER #2 FOR THE MISSISSIPPI DUNES 2ND ADDITION PROJECT.
- C. APPROVE CHANGE ORDER #1 FOR THE TIMBER RIDGE 6TH ADDITION PROJECT.
- D. ITEM PULLED FOR SEPARATE VOTE.
- E. AUTHORIZE LARSON ALLEN TO COMPLETE THE AUDIT SERVICES FOR FISCAL YEARS 2005, 2006 AND 2007.

- F. ADOPT **RESOLUTION NO. 05-193** REQUESTING ADVANCED MSA FUNDING IN THE AMOUNT OF \$1,069,000.00 TO FINANCE THE CITY'S SHARE OF CONSTRUCTION FOR THE RAVINE PARKWAY PROJECT IN 2006.
- G. ADOPT **RESOLUTION NO. 05-194** AUTHORIZING WRITE-OFFS OF THE COTTAGE GROVE UTILITY BILLING ACCOUNTS RECEIVABLE IN THE AMOUNT OF \$39,501.00.

MOTION CARRIED 5-0.

RESPONSE TO PREVIOUSLY RAISED OPEN FORUM ISSUES

NONE

PUBLIC HEARINGS

NONE

BID AWARDS

NONE

UNFINISHED AND NEW BUSINESS

- A. Consider LaFaver/Matthews Development, LLCA, Request for the Proposed Biscoe Grove Subdivision Located at the Southeast Corner of Lehigh Road and 100th Street.

Mayor Shiely explained that the Council is considering two items: the rezoning of 123 acres of land from AG-1 to R-1, and a preliminary plat. She stated that Council would consider each item separately adding that the Council is very happy that members of the Community are present and willing to be involved in this process. She assured the Community that the Council is very informed on this topic and expressed appreciation for the letters of concern sent to Council on this issue.

Community Development Director Blin stated that LaFaver/Matthews Development, LLCA, has two requests before the Council, the first is a rezoning of approximately 123 acres of land from AG-1, Agricultural Preservation, to R-1, Rural Residential; the second is a request for approval of a preliminary plat to develop 39 rural estate lots. He explained that the area identified is currently guided by rural designation and can be rezoned to R-1 zoning in order to accommodate residential growth. He noted that the request for rezoning is consistent with the Comprehensive Plan and reviewed the area maps with Council. He stated that when this item went before the Planning Commission for their review Staff recommended approving the rezoning noting that the Planning Commission has reviewed this project three times, twice in August and once in September and came to a 4-4 vote deadlock on the application and therefore the Council has no recommendation from the Planning Commission. He said that the reasons cited for not recommending approval were because the Commissioners did not believe that enough was being done to correct the roadway connections to Manning Avenue;

that the lot sizes did not vary enough in size; and development in this area is premature. He stated that excerpts of the Planning Commission meeting have been included for Council's review.

John Mathews, Centerville Minnesota, LaFaver/Matthew Developments stated that they are here tonight asking for a rezoning of the property from an AG-1 to an R-1. He stated that they believe that they have answered all of the questions from previous meetings with what they need to do to be consistent with the Comprehensive Plan. He explained that they have been in an uphill battle to get this to work on the plan side with respect to grading, housing and roads. He stated that they believe they have followed through with everything they should do adding that they are present to answer any questions.

Robert Johnson, 10711 LeHigh South, noted that he recently sent a two-page letter to the City Council regarding this issue and asked to read the letter out loud for the public. He stated that he currently lives in a rural residential area along with 20 other Lehigh residents on a road that is paid for by him and eight other residents. He reviewed the appearance of the current area with Council stating that this is what a rural residential area should look like. He expressed concerns stating that City Council Members are being asked to approve a request to rezone 123 agricultural acres to rural residential so that a developer can build 39 new homes on one and half acre lots, each with a well and septic system; in addition to paved streets, curb and gutter, islands in the streets, benches and plantings, along with walking paths. He stated that this is not rural residential, this is urban development and should be located adjacent to other urban developments, near the City center, where city water and sewer are available, not miles away, where there are thousands of acres of farmland in between.

Mr. Johnson stated that it is his understanding that the City wants the developer to pay \$317,500.00, noting that he is not sure of the number because he has also seen a \$600,000.00 figure, which would include 100th Street. He noted that the proposal would be to upgrade 6/10ths of a mile of Lehigh Road, which adjoins the west side of the 123 acres. He stated that this would leave approximately 4/10ths of a mile to upgrade up to Manning Avenue, which would be considerably more expensive to upgrade as it includes two private roads, six private driveways, electrical, utility and telephone poles and underground lines. He stated that the worst part about this proposal is that the City is proposing that the twenty Lehigh Road residents pay for the 4/10ths of a mile upgrade. He expressed concerns stating that this could be up to \$20,000.00 for each resident.

Mr. Johnson stated that another very serious problem is the access from Lehigh Road onto Manning Avenue noting that it has a bad angle and a steep upgrade. He stated that with the additional traffic from 39 new homes the City is proposing to rework this bad situation and expect the 20 Lehigh Road residents to pay for the upgrades. He explained that the residents don't want this, they don't need any of it and they do not want to pay for it, noting that this could cost the residents an additional \$10,000.00 or more. He stated that the Council should not vote to approve the rezoning request without knowing what the impact would be to the area and to the current residents. He stated that it is his understanding that this impact, which would be significant, would be determined later, which makes no sense. He stated that they are concerned that the Council plans to vote on a rezoning of property without knowing the

costs. He stated that this does not make sense at all noting that this deal should have been voted down at the planning level. He commended the four Planning Commissioners who saw this as a bad idea and voted against it, however because of the four other Commissioners who voted to recommend approval, it is now before the Council for a decision. He stated that this proposal for an urban development in the middle of a rural residential area is not right or fair to the Lehigh residents and asked the Council to vote against it. He thanked the Council for their time and consideration.

Mayor Shiely thanked Mr. Johnson for his letter stating that the numbers he mentioned with respect to potential assessments is rather scary noting that she is not sure where he got his information. She assured the residents that this would not be the case.

Mr. Johnson stated that based on the last report, if they are talking about \$600,000 to do that section of Lehigh Road and 100th Street, and even if they remove 100th Street, they would still be looking at \$317,000. He stated that it would probably cost at least that much to do the south end that they would pay for. He stated that the residents don't want to pay anything and expressed concerns about the costs.

Mayor Shiely assured the residents that this would not be the case adding that they are not anywhere near the point of discussing assessments, even if the plat is approved. She stated that the City recently completed and anticipates beginning the pavement management program on the rural roads in Cottage Grove noting that the City finished a year long study of how the City would assess rural roads. She explained that it was decided that in a normal circumstance the residents would pay approximately 45-percent of the costs, only if it could be shown that the benefit to the property is greater than the amount of the assessment. She further explained that if there were an assessment on Lehigh Road, the assessment would be determined based on the completed Rural Road Assessments study that was recently accepted by the City Council. She assured the residents that an assessment would not be based on 100 percent of the costs divided by the number of residents. She agreed that curb and gutter does not represent a rural road nor does a 34-foot road width. She expressed concerns stating that she does not want the assessment issue to get out of hand.

Council Member Grossklaus clarified that what the Council is currently considering is rezoning the area to R-1. He assured the residents that if the rezoning is approved it does not mean that a development is going in they are just saying that the area could be developed in the same zoning as their area.

Mr. Johnson expressed concerns that they are getting pushed into the upgrades because of this development and they do not want to pay for it.

Mayor Shiely stated that sometime between now and 2009 the residents would be pushed into these upgrades because they have a rural road that is in very bad shape. She explained that the City has a Pavement Management Plan that has the ultimate goal of upgrading all of the City's roads. She stated that all of the citizens, in urban areas, have been assessed for these roads over the last twelve years. She stated that this would hit the rural roads and residents would be hit at that point. She stated that they are not at that point yet and the Council is only

considering a rezoning.

John Perkins, 10723 Lehigh Road, thanked Mayor Shiely and the Council for listening to their concerns. He explained that when they spoke with the Planning Commission it seemed that some of the Commissioners cared about what they had to say and some didn't. He expressed concerns stating that it appeared that some had their own agenda of what they want for the area noting that it was amazing that no one said anything in favor of the project except the builder. He stated that it did not pass with a majority vote and now Council's time is being wasted with this. He pointed out that in the October 5, 2005 paper John McCool stated that the cost to improve the remaining portion of the Lehigh Road from the southern end of the development to the intersection of Manning would be paid for through assessments of existing residents noting that they are talking about this project, not the future. He stated that two meetings ago they had five holding ponds for stormwater runoff and now there are only two. He expressed concerns stating that there is severe flooding in this area and the residents end up paying to rebuild the roads. He stated that they cannot develop an area like this without adequate stormwater ponding. He expressed concerns regarding the possible increase in traffic on both Lehigh and Kimbro stating that the roads already can't handle the traffic. He asked who would be responsible for the costs to upgrade the roads going into Old Cottage Grove when they fall apart. He noted that this question was asked of the Planning Commission stating that they did not want to discuss this issue. He referenced the plat plans noting that two houses and three drain fields are on the gas easement adding that homes are being squeezed into every corner of the lots. He acknowledged that when construction begins signs would probably be posted along Lehigh prohibiting construction traffic stating that this would change the first time the trucks try to turn off onto Highway 95 from 100th and Lehigh. He stated that this corner is too difficult to maneuver for large trucks and semi's.

Mayor Shiely asked Mr. Perkins if he objects to the rezoning of the property.

Mr. Perkins stated that he objects to the rezoning of the property because it would lead to the development of the property. He expressed concerns stating that based on what he has seen so far the project is very poorly planned, which is why he objects to the rezoning.

Mayor Shiely asked Mr. Perkins if he thinks the landowner, considering it is guided for rural residential, has a right to the rezoning.

Mr. Perkins agreed that the landowner has the right and that they can sell their land. He noted that Mr. Biscoe was present at an earlier meeting and was asked if he no longer wanted to farm the land and he responded that he no longer wanted to farm the land. He further explained that this land is not part of the old farmstead noting that this land was purchased approximately six or seven years ago with the purpose of building on it. He stated that they previously developed a large section of land in Denmark Township and squeezed as much as possible into the area and when the lots were sold they moved into this area, bought the land, familiarized themselves with the procedures, built four houses over the years and are now ready for the big development to sell off the rest of the land. He noted that they are farming approximately three-thousand acres scattered throughout the area adding that this is not part of their farming project, it is just another piece of land and a way to make money.

Mayor Shiely stated that it is the owners right to make money.

Mr. Perkins agreed, but stated that the current residents should not have to pay \$10,000 to \$20,000 for him to make millions.

Mayor Shiely clarified that residents would not pay \$10,000 to \$20,000 noting that this is getting away from the subject, which is the rezoning.

Mr. Perkins asked Council to keep the intersection of 95 and Lehigh in mind when considering all of this. He expressed concerns stating that there are a lot of utilities in the area and is an extremely busy hill. He stated that with all of the work that would have to be done he is concerned that the current homeowners would have to pay for the costs.

Mayor Shiely assured the residents that they would not be required to attach to city sewer and water. She stated that this would be the homeowner's option adding that if a resident is living on five-acres, they would be responsible if they want city water and sewer, but it would be very expensive to get. She explained that when the issue came up, during the East Ravine discussion, whether City services should be made available in Old Cottage Grove as part of the East Ravine project the Council said no. She explained that it would be very impractical to have city services in this area adding that if it happened the residents would not be required to cap their well or go off their septic system, only if the resident chooses, which is the City's current policy.

Dale Thompson, 9947 Lehigh Road, referenced the Comprehensive Plan, noting in the front it states that the City of Cottage Grove recognizes and encourages agricultural land as a desired long-term use in commercial/agricultural areas, which is where this land is located and asked the Council why they want to rezone the property. He expressed concerns stating that many of the residents have 40 acres of land where they keep horses and do light farming adding that this is how they want the area to remain. He stated that this is a unique opportunity to maintain the 40-acre lots and keep the area agricultural rather than residential. He stated that this should be preserved for history's sake noting that the reason people live in this area is because they like the rural feel and nature of the area. He encouraged the Council to continue to protect and maintain the area as an agricultural area.

Council Member Rice stated that it would be overly expensive to run city water and sewer out to this area. He stated that right now they are only discussing the rezoning of this property. He acknowledged the traffic concerns noting that there is a conflict with what should be done at the intersection of Lehigh and 100th Street. He stated that he is hearing that something does need to be done in this area adding that this is something that would be addressed in the future. He stated that right now the Council is only considering the rezoning of this land.

Mr. Thompson stated that he would prefer that the area not be rezoned. He stated that he wants the area to remain agriculture noting that he would be ok with the rural residential zoning if it is done with larger plats.

Council Member Bailey called for the question noting that a lot of what Council is hearing is probably what would be heard once Council votes and discusses the development specifics.

Mayor Shiely clarified that calling for the question is not debatable and asked if there is a point of information.

Council Member Bigham clarified that it is her understanding that R-1 is between 1.5 and 3.5 acres.

Community Development Director Blin confirmed stating that R-1 requires a minimum 3-acre lot size and does allow for clustering to a minimum lot size of 1.5 acres, which is what is being done here. He further explained that they could not go less than 3 acres noting that open space has to be provided beyond that.

Council Member Bigham asked if there is anything that allows the livable area to be larger than 1.5 acres or would that be R-2.

Community Development Director Blin stated no adding that they only have AG and R-1.

Mayor Shiely stated that the question has been called and asked if the Council should vote to call the question.

City Attorney Thomson confirmed that this is a motion that requires a second.

MOTION BY BAILEY, SECOND BY RICE, TO CALL THE QUESTION. MOTION CARRIED 5-0.

Community Development Director Blin stated that the Public Safety Commission reviewed the project at their September 20th meeting noting that they had questions concerning the street widths and the Lehigh Road and Manning Avenue Intersection.

MOTION BY SHIELY, SECOND BY RICE, TO ADOPT **ORDINANCE NO. 781** FOR THE CITY OF COTTAGE GROVE MINNESOTA AMENDING CITY CODE SECTION 11-1-6, ZONING MAP, VIA REZONING CERTAIN PROPERTY FROM AG-1, AGRICULTURAL PRESERVATION, TO R-1, RURAL RESIDENTIAL, FOR PROPERTY LOCATED SOUTHEAST OF THE 100TH STREET AND LEHIGH ROAD INTERSECTION. MOTION CARRIED 5-0.

Mayor Shiely explained that the land has been rezoned to rural residential. She further explained that it would be very difficult to go into the East Ravine and tell the farm owners that they have to keep their land agricultural and that they could not sell their land for development. She explained that one thing the City is trying to do with the East Ravine is allow farmers who want to continue farming, to do so, but also to allow farmers who want to sell their land for development to do so.

Community Development Director Blin provided Council with an overview of the preliminary

plat stating that the area is 124 acres in size. He explained that they are proposing 39 lots, with an average lot size of 3.2 acres per lot. He stated that the actual development plan proposes a cluster concept with the lots arranged around the loop streets and reviewed with Council noting that the outlots would be held in common by all of the landowners in the development. He explained that the purpose of the outlots is to provide a buffer and separate the lots from Manning, 100th and to some extent, Lehigh Road. He stated that the outlots would be unmaintained common space or prairie areas. He stated that the lots would range in size from 1.5 acres up to 2.5 acres with average lot size being 1.8 acres. He stated that the loop street would loop through the development noting that it would be a 34 feet wide with curb and gutter. He stated that the curb and gutter is designed to handle some of the drainage adding that the lots would all be on private well and septic systems, similar to other properties in the area.

Community Development Director Blin stated that as this development has been discussed, through three Planning Commission meetings and one neighborhood meeting, two key issues have been identified. He stated that one issue identified involves the roadways in the area noting that currently 100th Street is a gravel roadway and Lehigh is a gravel roadway with a sealcoat application. He stated that the second issue is the intersection of Lehigh and Manning (Trunk Highway 95) noting that because it is an old road it comes in to Manning at a 45-degree angle. He stated that one thing they have discussed as Lehigh gets reconstructed is to realign this intersection. He reviewed the sketch design noting that they are proposing to create a 90-degree intersection. He noted that there are also visibility issues in this area that would also be corrected. He stated that Staff is proposing that the realignment be done during the course of this project. He indicated that Staff has had fairly extensive discussions with MnDOT on this issue and they are generally supportive of the proposed changes.

Mayor Shiely asked if Staff has had any meetings on Manning itself and its future. She asked if they have any idea on the timeline for the project.

Community Development Director Blin confirmed that Staff has discussed the future of Manning Avenue noting that they are looking out about ten to twenty years on some of the changes. He explained that MnDOT envisions that Manning would eventually be upgraded to a four-lane, State highway. He stated that at that time MnDOT would work not only on this intersection but also other substandard intersections along that way. He stated that they would also be considering the removal of some of the hills along Manning to improve the visual sight lines. He stated that their term is access management, which means closing some of the direct access points by combining the driveways through the creation of frontage points. He stated that they have had a couple of meetings with MnDOT over the last two months adding that this part of the project is still off in the distance but is now on MnDOT's radar screen.

Community Development Director Blin stated that in terms of improvements to Lehigh the general costs to improve an unimproved roadway in a rural section is approximately \$100 per foot. He clarified that this is a very preliminary estimate noting that a feasibility study would have to be done to determine the actual costs. He stated that the developer is being required, as a part of this development, to contribute approximately \$611,000.00 for the costs to improve 100th Street from Lehigh to Manning and to improve Lehigh for the length of the development.

He stated that the remainder of the costs would be assessed against the other property owners in the area. He reviewed the assessment process stating that it would be in the neighborhood of roughly \$4,000 to \$5,000 in assessments, per lot noting that it is their belief that this number is fairly high. He stated that in their discussions with MnDOT it was indicated that State Access Management funds might be available for this project noting that this could reduce the assessment amount.

Mayor Shiely stated that if the developer did not have to build urban roads within the development that the excess money could be contributed towards the upgrade of the road.

Community Development Director Blin agreed that this is something that they could consider. He explained that the current development is set up with curb and gutter to handle the drainage noting that if the decision is made to go without curb and gutter the grading would have to be recalculated. He stated that this is an option that could be considered.

Community Development Director Blin stated that concerns were also raised regarding drainage. He explained the current drainage flow with Council noting that some of it goes along Lehigh for which there are inadequate drainage facilities that does cause issues downstream. He explained that there would be two ways that this would be mitigated, first with the onsite drainage facility, built as part of the development, to reduce the flow that leaves the site in a rain event due to the ponding that would be constructed; and secondly, as Lehigh is reconstructed there would be ditch sections and better drainage facilities along Lehigh. He indicated that there were also discussions prior to this development in regard to improvements to the drainage situation in this area. He stated that concepts were discussed that would improve the drainage noting that the improvements would be assessed against the benefiting properties. He stated that the improvements along Lehigh would help address the drainage issues along Lehigh.

Mayor Shiely asked Community Development Director Blin if he is satisfied with the number of holding ponds on this property. She stated that this is one of the concerns that has been expressed by the residents and would like to know if there are enough holding ponds in this area.

Community Development Director Blin stated that he is very satisfied with the number of ponds for this development noting that this is a very valid concern. He stated that this has been the most discussed item in this development. He stated that the City Engineers are very comfortable with the plan that has been proposed. He assured Council that the proposed drainage is satisfactory to handle the runoff from this site. He stated that this plan was presented to the Planning Commission noting that the Commission deadlocked, four to four, on this proposal. He stated that the Staff recommendation is to approve the proposal noting that it does meet the ordinance requirements for the R-1 district, the drainage is sufficient and it is Staff's belief that the proposed drainage is sufficient.

Council Member Bailey referenced the map and asked if the small area in the upper northwest corner is City property and if proposed repairs to 100th and Lehigh would include this area.

Community Development Director Blin clarified that it is actually an exception and is attached to the property on the west side of Lehigh adding that the improvements would extend to the intersection.

Council Member Bailey stated that the developer is proposing \$611,000 for Lehigh and 100th adding that if the City were to come back, at a later date, for the second half and decide to straighten the road, would the City come back and assess the new homes in the Biscoe Development.

Community Development Director Blin clarified that the City would not go back and assess the new homes in the Biscoe Development.

Council Member Bailey asked if it would be in the City's best interest to ask the developer to pay some of the costs.

Community Development Director Blin stated that the City could suggest that the developer participate in the costs for this.

Council Member Bailey stated that the City should figure out what should be done with Lehigh adding that he would have a concern if the developer does not help to take care of that specific intersection. He stated that the layout on the proposal looks good adding that he does agree with the Mayor with respect to being rural in nature versus the curb and gutter and monument signs. He stated that he would prefer that they keep with the rural nature of the area. He asked if they are considering street lights throughout the development.

Community Development Director Blin stated that the only lighting they are considering is at the intersections with Lehigh.

Council Member Grossklaus asked if the State would pay for the change to curb and if they don't, who would pay for it.

Community Development Director Blin clarified that this would be part of the overall Lehigh improvement project. He stated that they would also discuss the possibility of MnDOT providing access management funds for part of this project. He stated that if the funds are provided it would be included in the funds to reconstruct Lehigh adding that it would also reduce the assessments.

City Administrator Schroeder stated that there are three components to the assessment policy, first the benefited properties would pay 45-percent of the project costs based on a benefit appraisal; second, if the benefit appraisal represents a benefit to the property that exceeds that it would be 45-percent of that amount and if it is less than that it would be whatever the lesser amount is; the third part is that if the City accumulates more money than the project cost the assessment would be reduced to the project cost.

Community Development Director Blin clarified that MnDOT has not said that the funds are available they have given a favorable response with respect to participating. He stated that the

particulars would still have to be worked out.

Council Member Grossklaus stated that if this project does not go forward in 2008 would the City continue to move forward with the changes or would the intersection be left as it is.

City Administrator Schroeder stated that Staff is currently working on a draft Capital Improvements Program that Council has not reviewed yet. He explained that several proposed rural projects starting in 2008 have been include in addition to additional road projects for 2009 that include Lehigh.

Mayor Shiely stated that people had concerns about whether the wells and septic systems would be affected by the establishment of 39 more wells and septic systems and asked if there would be enough water to handle the increase.

Community Development Director Blin stated that with respect to septic systems, all rural lots are required to provide a location for a drain field and an alternate drain field. He assured Council that there would be sufficient room for this. He referenced the wells noting that there have been no problems with wells in this area with respect to lack of water. He assured Council that Staff does not anticipate any problems with adding 39 wells.

Mayor Shiely stated that she lives in an area of Cottage Grove that is considered rural with 1-acre lot sizes. She explained that the lots have individual wells and drain fields noting that she has her water tested regularly with no problems. She further explained that the road is rural and that their area has to wait until 2008 for the upgrades adding that the upgrades would be more expensive two years from now than if it were done this year. She stated that having been a person in the City for many years that has been concerned about the preservation of the rural areas of the City, one of the things she has pushed for is rural residential housing. She stated that there has been a constant battle going in regard to septic systems and wells versus city water and sewer noting that planners tend to lean towards urban developments.

Mayor Shiely stated that preserving this lifestyle in Cottage Grove has been one of her main goals noting that this has been very hard to do. She explained that the Metropolitan Council oversees the City adding that the Metropolitan Council, along with the County, tells Cottage Grove what the City is responsible for as far as taking on a certain percentage of the population growth.

Mayor Shiely stated that she was very excited when the Briscoe development was first presented as she felt it would provide the City with an opportunity to preserve the lifestyle that she would like to see more of in Cottage Grove. She stated that it distresses her to have that kind of lifestyle available in other cities like Denmark Township or Afton and not Cottage Grove because there are no places left. She stated that she always thought of this as a type of buffer and that adding to it would be a positive thing. She assured the residents that she does not want city or urban development to come into this area nor does she want to see city water and sewer come to this area. She acknowledged that the proposal is a bit different because it is a clustered home style design adding that the advantage to this style is that it does preserve more of the open space. She stated that she feels good about the proposal but also shares

the same concerns in regard to large assessments or the type of development that would be built in this area. She stated that it is her hope that the development would preserve the rural quality that the residents are looking for. She stated that she is not sure what direction the Council is going to take adding that she does view this as a positive for the community.

Council Member Rice noted that one of the bullet points in a resident's letter dealt with two houses and three drain fields on a gas pipeline easement and asked where they are located.

Community Development Director Blin stated that the drain fields are examples of where they could be placed. He stated that it is important that there be room for the drain fields. He explained that it shows the house pad, which is two to three times larger than the actual house. He further explained that part of the house pad could spill into the easement adding that the actual house could not be built in the easement area.

John Matthews, LaFaver/Matthews Development, referenced the discussion regarding the contributions to road construction noting that they were a bit surprised to hear the \$611,000 figure. He clarified that it is their thought that the costs would be closer to \$200,000 when they begin to deal with the roads around the development. He stated that they do not believe that there is a need for the curb and gutter for Lehigh or 100th. He stated that they are willing to work through these issues noting that when they first considered cluster developments most of the concerns were with having the potential for lots that could be subdivided at a future time. He stated that the cluster style would help to prevent this from happening and would help to keep the rural feeling in this area. He assured Council that the homes would be very nice and appropriate for the lot size, price and area.

Bruce English, Director of Operations, Metro Land Engineering and Design, stated that they are the consulting engineers for the developers. He explained that they did the design and planning for the project. He noted the spirit of cooperation with respect to the road assessments noting that with the short timeframe they did not have the opportunity to get the final details together on the engineering. He stated that in terms of developing a rural road section within the development, they are willing to go back and work with City Staff and consulting engineers to look at how it would impact the drainage. He stated that if they are able to do this and come up with cost savings they would be willing to pass this information on to the City.

Mayor Shiely asked if they would be willing to table this for another month.

Mr. English stated that they would prefer that this not be tabled because the engineering piece on this project is locked up. He explained that they have spent over six months working with the City consultants on the design. He stated that he has listened to people's concerns regarding the assessments for improving Lehigh south of the project adding that the reason the assessment is so high is because the developer is being asked to do 100-percent of the improvement on both 100th and Lehigh adjoining the property. He stated that across the street is undeveloped land that is slated for R-1 in the future noting that if the owner decides to develop the improvements have already been paid for and the adjoining property would already be benefiting. He stated this gives a bit of a perspective on how they would get the

dollars to pay for the project. He assured Council that it is all doable noting that he only wants to give this a perspective. He referenced the stormwater design and clarified that none of the large ponds have been removed from the project.

Christine Gust, 10807 Lehigh Road, stated that when they first heard about the development they had heard that Lehigh Road would be turned into a cul-de-sac and that traffic would be redirected to other roads and asked if this was true.

Community Development Director Blin confirmed that the City had initially considered options that would have realigned Lehigh further to the north than what is being discussed now noting that it would have taken it across the south part of the property that is proposed for development. He explained that this was set aside due to grade issues and because there are properties south of this development where the road would have been, effectively, in their back yard. He stated that because there were no previous plans for a roadway in this location it was felt that it would be unfair to the residents to place a roadway in this location.

Ms. Gust asked if the developer is planning to provide cable lines to the new development.

Mr. English stated that with the availability of satellite systems the cost for the infrastructure would not be worth it noting that satellite would be the preferred option.

Ms. Gust urged the Council to vote against this development. She stated that she is one of the newer residents on Lehigh noting that she moved into the area approximately three years ago. She stated that she did her homework on the area adding that she feels she has a piece of heaven. She stated that she grew up in the country, moved into the city but decided to move back to the country. She stated that it is a piece of heaven for everyone out there adding that it is her hope that the area would remain rural and not be turned into a community of 39 homes. She stated that she would prefer to see a 3-acre minimum per lot applied adding that it is one of the most beautiful spots she has ever lived.

Chuck Hutchinson, 10847 Lehigh Road, thanked the Council and Staff for the time they have spent discussing this issue with him over the past couple of weeks and for meeting with him to review the area. He referenced Council Member Bailey's comment regarding how much the City would pay for the upgrade noting that he believes that he is right to express concerns about this issue. He stated that he believes that this issue is still up in the air noting that there has been considerable discussion about where the funds would come from, which is why there is so much uncertainty on the part of the residents with respect to assessments. He stated that these are questions that should be answered noting that the Council does owe it to the residents to explain how this would be done and to explain it before it all happens.

Mayor Shiely assured the residents that if this passes there would be two public meetings related to these concerns, which would give the residents two more opportunities to provide input on the proposal.

Community Development Director Blin clarified further stating that typically a neighborhood meeting is held with the residents to review the proposed designs prior to the first public

hearing. He acknowledged that Mr. Hutchinson has a specific concern regarding the realignment of Lehigh and how it would affect his property. He stated that the plans could be laid out and reviewed prior to the public hearing.

City Administrator Schroeder clarified that any improvements along Lehigh and 100th would become a City project. He stated that the first thing they do is a feasibility study that would include costs and how it would be paid for. He stated that this would also be brought to the neighborhoods for discussion. He stated that if the plat is approved they would still have the opportunity to work with City Staff on the road improvements.

Jerry Dirkson, 9966 Manning, stated that when they moved in to the area they had done their homework and did find that they were zoned AG but that the areas would most likely become rural residential at some point in time. He stated that he does not have a problem with this as long as it continues to be a 3-acre minimum for the lots and that the design of the homes would be in keeping with the character of the area. He expressed concerns regarding the proposed cluster concept stating that this design caught them by surprise noting that they could place more homes on a single lot and he is concerned that the design would stick out like a sore thumb in comparison to the surrounding area. He stated that it would take away from the rural nature of the area adding that he wants to see the area developed in a way that fits with rural aspect of the area.

Council Member Bigham agreed stating that she does not like the cluster design. She expressed concerns stating that the design looks very dense, is too urban for this area and there is not a lot of variety on the lots. She agreed that rural residential is a good idea and is something that the City needs more of, but the design is too dense for this area. She stated that she also agrees with the uncertainty felt by the residents with respect to how the upgrades to the roads would be paid for. She stated that she would like to have a better idea of what it would cost for the upgrades and how it is going to be paid for.

Council Member Grossklaus stated that he is not excited about the assessment process noting that they still don't know what the costs would be for the upgrades to the roads. He noted that he has seen a couple of different numbers with respect to cost adding that he is not against the cluster design because there are buffers for the area. He stated that he can't vote for something when he does not know what the City would be responsible for with respect to costs. He stated that one thing that did bother him that came from the Planning Commission is the statement that was made that the streets would be named by the County system, which goes against the City's policy. He stated that the Commissioners should have known about this policy and it should have been addressed. He stated that until he knows the cost he can't vote for the proposal.

Mayor Shiely asked if it would be possible to table this until the information could be pulled together.

Community Development Director Blin stated that they would not know more until they actually do some engineering work on this roadway. He explained that typically this is done when a feasibility study is ordered and at this point they can only provide their best estimate for typical

roadway construction. He explained that with most road improvements they do a feasibility analysis, which has been pushed forward due to the proposed development.

City Administrator Schroeder stated that Staff has suggested, through the resolution, that in order to do this development, the developer has to provide funds in order to reconstruct 100th Street and Lehigh. He noted that it could be as simple as the City approving the reconstruction of the streets and nothing else. He stated that it was decided that it would only make sense to considering completing that street, as it would provide them with an opportunity to improve the situation at a lower cost now than what it would be in the future. He stated that Staff could provide Council with a recommendation that would include the needed improvements and the costs. He indicated that this would also be discussed with the residents via the public hearing process noting that it would provide the residents with an opportunity to weigh the expected costs with the expected assessments.

Mayor Shiely clarified that the City could ask the developer to do 100th Street and Lehigh to the southern end of this development and leave the rest of Lehigh as it is now and not assess anyone for the development knowing that in three years, when things are going to be more expensive, that the road would be upgraded and the homeowners would be assessed at that time. She stated that the road is not going to last much longer so the question and issue is whether the road is done now or they wait until 2009.

City Administrator Schroeder agreed that this is an issue and that it is Staff's belief that if they wait to do the section below the property that it would be a more expensive project and assessment. He assured Council that Staff would provide them and the public with a recommendation as to what the road improvements should be and what they would cost. He stated that they could be assured that Staff's recommendation would be to improve that entire stretch of road. He explained that through the public process the residents would be given the opportunity to weigh the expected costs of the project and the expected assessments versus the costs of a stand-alone project and the expected assessments for a stand-alone project. He stated that Staff believes, from a dollar/cost basis, that it would be the best decision to complete the entire road.

Mayor Shiely stated that a decision on the preliminary plat to develop the 39 rural estate lots in no way implies that the City would be upgrading Lehigh from the southern most point of this property to Manning and assessing the residents.

City Administrator Schroeder stated that this is correct stating that they could rest assured that Staff would be proposing this. He stated that the final decision is up to the Council adding that the residents would be given the opportunity to provide their feedback.

Mayor Shiely clarified that they could leave Lehigh as it is and the only part that would be developed is a portion of Lehigh and 100th Street.

City Administrator Schroeder agreed that they could do this adding that the reason Staff would recommend against this is because the drainage issues that they already know exist would not be corrected and the alignment problem at Manning and Lehigh would not be corrected adding

that they would be recommending the same project in three or four years.

City Attorney Thomson suggested that City Administrator Schroeder lay out what would happen. She stated that it is possible that the assessments could be higher if this road is going to be reconstructed in three to four years anyways noting that if this development were not approved, the funds the developer has agreed to commit to for 100 percent of the reconstruction of Lehigh and 100th would no longer be available and they would have to rely entirely on the special assessment process, which could also make the assessments higher.

City Administrator Schroeder explained that the City has a five to six-year capital improvement plan that lays out all reconstruction projects. He noted that as mentioned previously the City had an existing pavement management policy that dealt with who would be responsible for the costs of the project. He indicated that the Council knew that over the next ten years the City would be facing rural reconstruction projects. He explained that the Council put together a group of citizens that worked together to develop a recommendation for the future residential and rural residential street assessment policy. He stated that a policy was adopted that states the City would levy assessments against an improved property, urban or rural, if the property benefits by 45-percent from the improvement. Additionally the Task Force included another facet where the City would go into the project based on the benefits of the appraisal. He explained that the appraisal would verify that the assessments are in line with the construction project. He stated that as a result of the Task Force, Staff put together a list of the improvement projects, slated for 2008 and 2009, that is included in the Capital Improvement Plan that Council will be reviewing shortly. He indicated that if they are still discussing this in 2009 that Staff would probably propose reconstruction improvements for that portion of Lehigh in addition to stormwater improvements. He stated that the resulting assessments would be in the range of approximately \$5,000 and are based on the level of benefits the properties would derive from the improvements. He stated that all of the dollars discussed would be provided by the developer or by MnDOT.

City Administrator Schroeder referenced a question asked earlier regarding when the sewer and water costs would affect the residents. He explained sewer and water access noting that none of the properties along Keats have been levied for the upgrades and would not be levied until the property is developed.

Mayor Shiely clarified that one of her concerns is whether or not some kind of exchange on the curb and gutter would be available. Community Development Director Blin explained that the design of the roadway is actually outside the design of the plat decision because the plat shows a 60-foot-wide right-of-way and within that they would build a street with or without curb and gutter. He stated that Staff could be directed to investigate alternatives.

Mayor Shiely stated that she would like Staff to investigate alternatives including the road width. She asked if approving the plat would approve the road width.

Community Development Director Blin clarified that approving the plat would not include approval of the road width. He suggested that Council include in the motion a condition of the plat that Staff and the developer investigate alternatives to the 34-foot road width of curb and

gutter.

Council Member Bailey stated that he is still concerned about the other end where the road is going to turn up. He asked Staff how certain they are that the City would get funding from the State. Community Development Director Blin clarified that Staff is not certain but they are hopeful that funding would be received. He clarified the second part of the question that if there is a cost savings from narrowing the street and losing the curb and gutter that Council would like to see it applied to the road project.

Council Member Bailey stated that this is exactly what he is saying, specifically with the other end. He stated that he does understand that they are paying the full 100 percent for the other part adding that his biggest concern has been access onto Highway 95. He stated that the best scenario he saw was something staff recently proposed and wants to be sure that this is what is going to be done. He clarified that if the City waits a few years for the assessment that the assessment would be higher than the assessment now, whether the development is done or not. He stated that his feeling is that if he likes the development and it comes back in a couple years, and Lehigh has been rebuilt and residents have been assessed at a higher rate, the Council would probably vote in favor of the development. He clarified that he heard from the residents that they are concerned about the safety on Lehigh Road. He stated that this is his biggest concern with the whole project and asked that something be done to make this road right. He stated that he is in favor of this and asked that it be included in the motion that any cost savings in this development proposal with the interior roads that the money be put towards the rebuilding of this intersection. He stated that if funding is received from the State the assessments to the homeowners could be minimal. He stated that he does not see the City building a road by the developer up to the property line and not having Lehigh fixed from that point to Highway 95. He stated that the fact remains that people will travel along this route, so it's an issue of whether the Council waits or makes the decision now. He stated that he believes this should be decided now as the development is being proposed. He stated that his concerns have been road related and that he wants to be sure that the residents have safe road access.

Chris English acknowledged the Council's struggles with the road issues and asked Community Development Director Blin and City Administrator Schroeder, hypothetically, that if the money the Council discussed is used to do total improvement of 100th, without putting the top on, but clearing the ditches, widening the road and putting down new Class 5 base, that it seems this in the cue for a capital improvement project and that 100th would come up in three or four years, the City would be able to take care of two issues.

Mayor Shiely agreed stating that she has also made this suggestion and that it has been discussed. She stated that it has always been her belief that it made more sense to put the bulk of the money into Lehigh than it did to 100th Street. She explained that access has been brought up throughout their discussions noting that this would be a part of the City's rural pavement management plan.

City Administrator Schroeder stated this decision would be evaluated in the feasibility study.

Mayor Shiely stated that she would prefer that the funds be put towards Lehigh rather than rebuilding 100th Street.

MOTION BY RICE, SECOND BY BAILEY, TO ADOPT **RESOLUTION NO. 05-195** APPROVING THE PRELIMINARY PLAT FOR BISCOE GROVE WITH THE ADDITION OF CURB AND GUTTER AND TO INCLUDE THE CONDITION THAT ANY COST SAVINGS RELATED TO THE INTERNAL ROADS BE APPLIED TO THE UPGRADE AND REPAIR OF THE INTERSECTION OF LEHIGH AND MANNING AND THAT STAFF AND THE DEVELOPER INVESTIGATE ALTERNATIVES FOR THE 34-FOOT ROAD WIDTH FOR THE CURB AND GUTTER. MOTION CARRIED 3-2. (2 NAYS – GROSSKLAUS, BIGHAM).

Mayor Shiely called a five-minute break at 9:33 p.m.

Mayor Shiely called the meeting back to order at 9:41 p.m.

B. Consider an Ordinance Amendment to Prohibit Home Occupation Businesses from Serving Customers after 8:00 p.m.

Mayor Shiely reviewed the ordinance stating that the Council and Staff have received a number of calls from people with home businesses asking for clarification. She stated that right now the Council does not have a good understanding of the home occupation ordinance and asked for further clarification.

Community Development Director Blin agreed that there is not a good understanding of the extent of home occupations. He explained that this is a reaction to a comment that was made about a specific home occupation. He stated that because this needs more study Staff suggests that Council deny this ordinance amendment and Staff would do an analysis that would include the actual number of home occupations that exist in Cottage Grove, the type of home occupation businesses and the hours of operation. He stated that Staff would put this information together and come back to Council at a later date with the information so that Council can make a better determination on the direction the City should go.

Council Member Bailey agreed that there is a need to do an assessment to determine the number of home occupation businesses that do exist in Cottage Grove. He asked what the numbers are for the complaints received to date and if there actually have been any complaints filed in regard to the hours of operation. City Administrator Schroeder stated that he is not aware of any complaints noting that Staff has not studied this issue fully. He stated that Staff feels that the entire issue should be reviewed and asked for participation from individuals with home occupation permits.

Dorothy Wicks, 6374 82nd Street, stated that she is a piano teacher and has had a permit to operate a home business for 21 years. She explained that she along with parents and students, have concerns about the hours of operation, especially for the hours after 8:00 p.m. She explained that many of her students are scheduled after 8:00 p.m. due to potential conflicts with school, community or church activities in addition to the travel time for parents from work to a lesson. She stated that one of her biggest concerns is that the 287 owners of

home-occupied business have not been given the opportunity to provide their opinion or feedback. She explained that she was not able to attend the Planning Commission meetings because she is teaching. She explained that she does not have any appointments during school hours adding that many others do not keep regular business hours either in order to accommodate their customer base. She stated that she would like to be able to keep the opportunity for people to be able to use the service applications and home businesses adding that it is considered, by the State of Minnesota, that music lessons, taught by an instructor, also qualifies as an educational expense. She stated that she does face some interesting scheduling issues due to the extra-curricular activities of her students noting that she is trying to accommodate both the student/customer and the City. She stated that she does not believe that there is much noise generated by her customers' vehicles coming down the street anymore than any other vehicle traveling along that street for any other purpose. She assured Council that she does have concerns for her neighbors adding that she does ask her clients to respect the neighboring properties. She expressed concerns stating that restricting the hours of operation to an 8:00 p.m. timeframe would definitely put several of her students in jeopardy adding that the schedule currently in place works very well. She stated that schedules should be a huge consideration in this issue adding that it is her hope that she would be able to continue to serve her clients beyond the 8:00 p.m. timeframe.

Council Member Biggam suggested getting the information and statistics versus having this go directly to a change. She stated that she is not comfortable with going directly to a change until Council has had the opportunity to review all of the information.

MOTION BY BAILEY, SECOND BY BIGHAM, TO DENY THE ADOPTION OF AN ORDINANCE FOR THE CITY OF COTTAGE GROVE, MINNESOTA, AMENDING TITLE 11-9A-3, HOME OCCUPATIONS, OF THE COTTAGE GROVE CITY CODES. MOTION CARRIED 5-0.

C. Consider Allowing the Representative for Las Margaritas Bar and Grill to Admit To or Deny the Allegation that their Establishment Sold Liquor to a Minor Less Than 21-Years of Age during the Public Safety Department's Compliance Check on October 19, 2005.

Mayor Shiely stated that on October 19, 2005 the Public Safety Department conducted the second of two alcohol compliance checks for 2005. She stated that of the 20 licensed liquor establishments checked, three were closed, 16 refused sale and one, Las Margarita's Bar and Grill, failed the compliance check and sold liquor to a minor. She stated that this is their first violation in a 24-month period noting that the licensee, President and Manager, Hector L. Castro, has been invited to attend the Council meeting to have the opportunity to admit to or deny the allegation. She stated that if the licensee admits to the violation, it is recommended that the Council impose the authorized fine of \$500.00 for a first violation. She noted that in the event that the licensee denies the allegation, Staff recommends that the Council direct the City Attorney to schedule a contested case hearing before an Administrative Law Judge. She stated that the licensee would have an opportunity to refute the allegation and provide evidence and asked if the owner, manager or a representative of Las Margarita's Bar and Grill is present. She noted that no one was present from the Las Margarita's Bar and Grill stating that non-attendance of a representative would constitute an admission of the violation and

automatic imposition of the \$500.00 fine.

MOTION BY RICE, SECOND BY BIGHAM, TO APPROVE THE IMPOSEMENT OF A FINE OF \$500.00 TO LAS MARGARITAS BAR AND GRILL FOR THEIR FIRST VIOLATION IN A 24-MONTH PERIOD. MOTION CARRIED 5-0.

- D. Consider a Variance to Allow a Gravel Parking/Storage Area to be Setback Three Feet from the Side Property Line when Six Feet is Required and to Encroach on a Drainage/Utility Easement.

Community Development Director Blin stated that David Stradtman, 6662 Highland Hills Lane South, has applied for two variances for setbacks to allow a parking/storage area for a trailer on a gravel parking pad to be setback three feet from the side property line when six feet is required; a variance concerning parking on a drainage and utility easement; and a variance concerning a parking surface behind the front plane of the dwelling. He stated that a location map and the property owner's site plan drawing have been provided to Council for their review. He reviewed the area noting that the applicant has requested a variance to allow him to park a snowmobile trailer within the area. The trailer would be six feet within the property line and partially parked over the utility easement. Staff recommends against it because they found no hardships. He noted that the Planning Commission reviewed Mr. Stradtman's request on October 24, 2005 noting that the Planning Commission recommended approval.

David Stradtman, 6662 Highland Hills Lane South, reviewed the photograph of the current condition noting that the snowmobile is parked behind the fence in the photo and is not visible. His perspective is that the fence is in compliance with all ordinances and what is included has to be kept behind the fence and not visible. He noted that this condition would exist either way visually noting that the only time it comes into conflict with the ordinance is when he stores the snowmobile behind the fence. He suggested that the condition of the variance would be that whatever is parked behind the fence has to be screened from view. He indicated that his neighbors are not concerned about the trailer and that any future buyer of the house would be aware of the conditions for the neighboring property. He assured Council that it would be shielded from view.

Council Member Grossklaus clarified that this is an easement request for a retaining wall.

Community Development Director Blin confirmed noting that the retaining wall would be required as part of the easement. He explained that the driveway in front would also have to be included and paved and that if the area is not utilized as storage it would then have to be landscaped.

Mayor Shiely stated that she does not see the hardship adding that her concern is the way the variance would apply across the City. She explained that the Council has to consider the overall results and how the variance would be applied.

Mr. Stradtman clarified that from a visual perspective and from the perspective of the public, as it relates to the condition, it is not in violation and asked if the Council is concerned about

creating a precedent. He clarified that what he is requesting is that the variance be granted with the condition that anything stored behind the fence could not be visible. He acknowledged that Council is trying to protect the health, safety and welfare of the community and asked what purpose would be served by denying him the ability to store anything behind the fenced area. He explained that they were one of the first homes built in this development and when he presented his plans to the developer he explained his intent for this area noting that the developer did approve the plans with this in mind. He expressed frustration that a privatized homeowners' association has now refuted the plans that were approved by the developer. He stated that his standpoint is that he asked for permission to create the storage area up front at the time of development, with the appropriate individuals, and provided the specifics of the plan to ensure approval. He stated that he was under the impression that what he wanted to do was fine. He clarified that this issue was not brought to the City due to a complaint noting that he understands the Council's perspective. He assured Council that he was operating under the assumption that he was in compliance.

Council Member Grossklaus stated that this says it is an easement, specifically the retaining wall and asked for clarification. He asked if the gravel driveway is allowed by City code.

Community Development Director Blin clarified that the retaining wall would be required with the same variance because it is in the easement. He noted that it is not inhibiting any drainage. He stated that the driveway in front would have to be improved adding that the applicant has indicated that this area would be improved. Mr. Stradtman confirmed that if the variance is granted the area would be paved but if it is not to be utilized as storage it would be landscaped.

Mayor Shiely stated that she does not see the hardship here with a three-car garage. She stated that all over the City people have a shortage of storage space. She explained that the Council has to consider how the results of this variance would apply across the City. She suggested that Mr. Stradtman consider other alternatives such as a storage area.

Council Member Grossklaus clarified that if another homeowner were to do the same they would also expect to be denied. He explained that not all developments have homeowners' associations so the City can't always check what is going to happen. He stated that at some point items that are not in compliance could be stored in this area that could not be foreseen and that could cause problems in the area.

Council Member Rice agreed noting that Mr. Stradtman is in a development that is already three-years old and the City is working to eliminate these kinds of situations. He stated that what is parked on this location is not the issue, it is still out of compliance with the City's current ordinance.

MOTION BY GROSSKLAUS, SECOND BY BIGHAM, TO DENY ADOPTION OF A RESOLUTION GRANTING A VARIANCE FROM CITY CODE TITLES 11-3-3C, 11-3-9E(5)(a), AND 11-3-9E(5)(b) TO ALLOW A PARKING/STORAGE AREA FOR A SNOWMOBILE TRAILER ON A GRAVEL PARKING PAD TO BE SETBACK THREE FEET FROM THE SIDE PROPERTY LINE WHEN SIX FEET IS REQUIRED AT 6662 HIGHLAND HILLS LANE

SOUTH. MOTION CARRIED 5-0.

RESPONSE TO PREVIOUSLY RAISED COUNCIL COMMENTS AND REQUESTS

NONE

COUNCIL COMMENTS AND REQUESTS

NONE

PAY BILLS

MOTION BY BIGHAM, SECONDED BY BAILEY, TO APPROVE PAYMENT OF CHECK NUMBERS 142527 THROUGH 142708 TOTALING \$1,374,930.25. (CHECKS 142527 – 142558 IN THE AMOUNT OF \$147,862.66 ISSUED PRIOR TO COUNCIL APPROVAL.)
MOTION CARRIED 5-0.

WORKSHOP SESSION – OPEN

NONE

Mayor Shiely called a 5-minute break at 10:15 p.m.

Mayor Shiely called the meeting back to order at 10:20 p.m.

WORKSHOP SESSION – CLOSED

A. Contract Negotiations

ADJOURNMENT

MOTION BY BIGHAM, SECONDED BY BAILEY, TO ADJOURN THE MEETING AT 10:50 P.M. MOTION CARRIED 5-0.

Respectfully submitted,

Bonita Sullivan
TimeSaver Off Site Secretarial, Inc.