

Mayor Beyer called the February 8, 2011 regular council meeting to order at 7:00 p.m. in the council chambers of city hall, 6031 Main Street, Rockford, MN.

**ROLL CALL**

Roll call was taken and the following council members were present: Beyer, Graner, Hafften, Martinson and Wenz. Absent: none. Also in attendance were: Planner Dan Licht of The Planning Company, Administrator Carswell and Public Works Supervisor Peterson.

The Pledge of Allegiance to the Flag was given.

**\*CONSENT AGENDA/SET AGENDA**

Motion was made by Graner, seconded by Hafften to approve all items on the consent agenda.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Approve Regular Council Minutes/January 25, 2011**

Motion was made by Graner, seconded by Hafften to approve the minutes of the January 25, 2011 Regular Council Meeting.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Approve Payment of Claims**

Motion was made by Graner, seconded by Hafften to approve the payment of claims #18738 to #18794 in the amount of \$98,397.00.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Approve Building Permits**

Motion was made by Graner, seconded by Hafften to approve the building permits #11-01 to #11-05.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Approve Donation to Rockford Senior's All Night Graduation Party**

Motion was made by Graner, seconded by Hafften to approve a \$200.00 donation for the Rockford High School Senior's All Night Graduation Party to be used towards the health, safety and welfare of the students and not for the purchasing of prizes, etc.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Resolution #11-08 Approve Recommending Continuation of CDBG Funding of Western Communities Action Network (WeCAN)**

Motion was made by Graner, seconded by Hafften to approve Resolution #11-08 to approve recommending continuation of CDBG funding of Western Communities Action Network (WeCAN).

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**\*Resolution #11-09 Approve 2011 Appointments – Park Commission Member**

Motion was made by Graner, seconded by Hafften to approve Resolution #11-09 to approve the 2011 Appointments to remove Ann King and add Kim Lucarelli.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

**OPEN FORUM**

Mayor Beyer called Open Forum and no one was present to speak.

**Resolution #11-10 Adopt Ordinance #11-02 Zoning Ordinance Updates**

Planner Dan Licht explained that Planning Commission is undertaking a review and update of the Zoning Ordinance. This memorandum outlines recommended updates to provisions regarding variances, non-conforming uses/buildings and allowance of residential care facilities and day cares to be consistent with recent court decisions and changes in State Statutes. Language is also recommended regarding expiration of conditional use permits for non use. A modification to the Sign Ordinance is also being considered to address signs that the City may allow within the public right-of-way.

**Variances.** The Minnesota Supreme Court recently issued a decision that effectively requires cities to implement a very strict interpretation of hardship when considering variance applications. Under this decision, unless a property is prevented from a use allowed by the Zoning Ordinance because of too restrictive provisions a variance should not be approved. This interpretation is consistent with the intent of the variance procedure to provide relief to property owners to allow use of property where otherwise a taking of property rights would occur. Request for a variance to allow a reduced setback to accommodate a third stall garage onto an existing single family dwelling would not be allowed under the Supreme Court's decision as the property owner already has reasonable use of the property under the Zoning Ordinance and the additional garage space is simply a convenience. If the City encounters situations where relief from a provision of the Zoning Ordinance seems reasonable and would apply to multiple properties in similar situations, then the appropriate action is to either amend the provision to address the issue or provide the option of relief as some type of administrative permit, conditional use permit or interim use permit whereby criteria can be established for when such requests should be approved or conditions of approval imposed. The amendments to the Zoning Ordinance to respond to the Minnesota Supreme Court decisions include:

- Including a definition of "undue hardship" consistent with State Statutes.
- Revising the definition of variance to reference and reflect language in State Statutes.
- Revising the criteria upon which variance applications are to be reviewed to reduce the number of factors and make the language more consistent with that in State Statutes.

**Non-Conforming Uses.** There have been modifications to State Statutes regarding non-conforming uses that effect the City's ability to require their elimination:

- Amortization of a non-conforming use or building cannot be required to establish a deadline for termination of a non-conforming use or removal of a non-conforming building. Non-conforming uses and buildings that were legally established may essentially continue indefinitely in a like manner and condition under which they were originally approved.
- A non-conforming use that is discontinued may be reestablished within one year of that date.
- A non-conforming building that the City determines to have been destroyed may be reconstructed in the same manner provided that a building permit is requested within 180 days from the date it was damaged.
- Additional language expanding the provisions regarding alteration of non-conforming buildings and provisions dealing with non-conforming lots are also proposed.

**Conditional Use Permits.** Conditional use permits approved by the City Council run with the property indefinitely allowing to a use to continue under the same conditions in the same matter. Unless language is included in the Zoning Ordinance to state that the conditional use permit expires after a period of time after a use is stopped, another use can be reestablished on the same property without further review. As such, City staff is recommending that language be included in the Zoning Ordinance that conditional use permits expired after a period of 12 months due to non use. A similar use could reoccupy a property but would be required to apply for a new conditional use permit. This process allows the City the opportunity to make

sure that all applicable performance standards, including those that may have been updated, are complied with.

**Election Signs.** The State modified the Statute specifying the allowed period before and after an election during which the City may not regulate any non-commercial sign. The proposed language updates this section of the Sign Ordinance.

**Signs in the Public Right-of-Way.** The City is the owner of the public right-of-way and administers it in the public interest which gives it the right to determine what may or may not be located within its property the same as any other property owner. The City is also responsible for adopting and administering a Sign Ordinance to protect the public interest including that of the travelers upon public streets. As such, it is within the City's discretion to determine what signs may be allowed in the public right-of-way. These signs may include official traffic signs, other public signs or signs that the City Council finds serves the public's interest including business identification and/or directional signs. Language is outlined as part of the draft Zoning Ordinance amendment that would leave such decisions to the discretion of the City Council on a case-by-case basis.

**Day Care/Residential Care Facilities.** State Statute requires that the City make allowance for day care uses serving 14 or fewer persons in single family homes as a permitted use. State Statute also requires the City to make allowance for 24 hour residential care facilities within single family districts that serve 6 or fewer persons and within multiple family districts serving 16 or fewer people as a permitted use. Language compliant with State Statutes is proposed as amendments to the R-1, R-2 and R-3 Districts.

The Planning Commission held a public hearing on January 20, 2011 to consider the proposed amendments. There were no public comments and no written comments received. The Planning Commission discussed how the updated variance criteria would affect potential applications and also implementation of the revised non-conforming use and new CUP expiration provisions. As part of these discussions the Planning Commission recommended changing the proposed 18 month period to use an approved CUP to 12 months consistent with the Statutory allowances for non-conforming uses. With no further discussion, the Planning Commission voted 4-0 to recommend approval of the proposed ordinance amendments. The proposed amendments and recommendation of the Planning Commission were presented to council for final approval.

MOTION was made by Martinson, seconded by Hafften to adopt Resolution #11-10 Adopt Zoning Ordinance Updates Ordinance #11-02.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

#### **Hazardous Excavation at 5512 Sunset Circle**

Staff sent out bid sheets to two local companies regarding abating the hazardous conditions at 5512 Sunset Circle. The bids were opened on February 2, 2011 with the following results:

	Summer	Winter
Doboszinski & Sons	\$8,100	\$9,600
Burschville Construction	\$10,500	\$11,000

The property owner Mr. David Clark was contacted and provided the bid information. Mr. Clark wanted to get another bid of his own. Mr. Clark had not yet contacted staff with any further information so a follow-up phone call will be made and this matter will be placed on the February 11, 2011 agenda for council action.

#### **Hiring of Public Works Maintenance Employee**

There were 92 applications which were ranked by the Deputy Clerk, Street Employee and Public Works Supervisor. Those with a certain amount of points were called for an interview. Three interviews took place on Thursday, January 27th with Mayor Beyer, Street Employee Quirk, Public Works Supervisor Peterson

and Administrator Carswell. On Monday January 31<sup>st</sup> four more candidates were interviewed, the only change in the committee was that Council Member Hafften took the Mayors place.

The candidates were then ranked 1 to 7 just in case the first candidate did not accept the position and checked references for the top three candidates. Jeremy Ketcher was ranked the #1 candidate, but he has declined the offer. The position was then offered to the #2 candidate, Christine King.

The committee recommends hiring Christine King at \$16.80 per hour starting on February 28, 2011.

MOTION was made by Martinson, seconded by Wenz to authorize staff to hire Christine King for the Public Works General Maintenance position, starting on February 28, 2011 at a rate of \$16.80 per hour contingent upon a physical exam and drug/alcohol testing.

MOTION CARRIED-VOTING IN FAVOR: BEYER, GRANER, HAFFTEN, MARTINSON AND WENZ

### **Administrator's Report**

Council reviewed the administrator's report including the following items: staff is getting pricing for some upgrades and maintenance items at City Hall, grant for some improvements at the Ames-Florida House, cost of mailing the spring 2011 newsletter, Parkwood Development, meeting with school to discuss field maintenance, opening in Park Commission and Planning and Zoning Commission, Wright County Animal Humane Society regarding the option of picking up non-canine animals, and employee benefit information. The public works supervisor Dennis Peterson reported that more trees will need to be removed from the flood levee and he will provide quotes for this at the February 22, 2011 meeting. Dennis Peterson also reported on the status of the snow on the public works facility roof and that staff is monitoring it along with the structural engineer that designed the building. It may come to the point where the city will have to remove snow from the roof. Steve Berg the Wright County Emergency Director will be attending a special council workshop meeting at 6:30 p.m. February 22<sup>nd</sup> in the council chambers to provide information about resources that are available to the city in the case of flooding and other emergency management information. Staff will post a notice of the special meeting.

### **Engineer's Report**

Bonestroo's report included: an inspection by the Corps of Engineers as soon as possible in the spring with the goal of getting into the Rehabilitation and Inspection Program (RIP) – this program would provide the City with an 80% cost share from the federal government for levee repair costs should it be damaged by a storm or flood, Parkwood 3<sup>rd</sup> Addition – the developers recently submitted a proposal showing a combination of trail construction and cash contribution in lieu of the network of trails which were to be constructed as part of the developer's agreement and after City staff reviews the proposal this will be presented along with the rest of the developer's agreement revisions at an upcoming meeting, Downtown Master Plan is being worked on over the winter – Wright County still plans on a resurfacing project for CSAH 33 through the downtown area in 2013 or 14, so the City will want to coordinate any utility repairs such as replacement of cast iron water main during the project, a possible seal coat project for next summer is being worked on and last the Crow River is being monitored for possible flooding.

### **Adjournment**

MOTION was made by Martinson, seconded by Graner to adjourn the meeting.

Mayor Beyer adjourned the meeting at 7:58 p.m.

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Michael Beyer, Mayor

Nancy Carswell, Administrator