

**WOODLAND
CITY COUNCIL MINUTES
Tuesday, November 13, 2012**

CALL TO ORDER & PLEDGE OF ALLEGIANCE

Mayor Doak called the meeting to order at 7:00 P.M.

ROLL CALL

Present: Mayor Jim Doak; Council Members Sliv Carlson, John Massie, Mike Jilek and Chris Rich

Staff: Zoning Administrator Gus Karpas, Chief of Police Cory Johnson, City Attorney Joel Jamnik and City Clerk Shelley Souers.

Guests: Tom Newberry, Greg Felton, Christine Meyer, Richard Salmela, Tracy Kirby, Tim Lovett, Wade and Katherine Campbell, Bob Ripley, Dean Brietbach

CONSENT AGENDA

A. Minutes October 8, 2012; Regular Council Meeting

B. Appoint LMCD representative to Woodland; Resolution No. 24-2012

Council Member Carlson moved and Council Member Jilek seconded the motion to approve the consent agenda as presented. Motion carried unanimously.

PUBLIC HEARING

A. Subdivision, 2845 & 2855 Woolsey Lane: Final Plat Review

Mayor Doak recused himself from the Council and yielded the chair of the meeting to Council Member Jilek, designated Mayor Pro Tem.

Mayor Pro Tem Jilek opened the hearing.

Zoning Administrator Karpas provided an overview of the proposed subdivision which had received preliminary approval at the October meeting of the Council. The final plat divides two existing lots into four conforming, single family lots. The Plat name will be changed from Woolsey Mountain to Felton Welch Estate.

The City Engineer and City Attorney have reviewed both the preliminary and final plats at the request of Zoning Administrator Karpas. Mr. Karpas recommended the final plat be approved, subject to the condition that the City Engineer review the grade of lots 1 and 4, prior to the issuance of building permits.

Mr. Wade Campbell, 2865 Breezy Heights Road asked if each property would have a legal description.

Mr. Greg Felton, owner of 2855 Woolsey Lane and co-applicant of the subdivision, answered that each lot would be distinct and he presented a colored plat to illustrate the proposed lot divisions and the driveway easement location for lots 1 and 2. The driveways for all four lots will intersect with Woolsey Lane. No new public roads will be created.

Mrs. Katherine Campbell stated that she had submitted a written comment requesting that the existing driveway be removed prior to construction of new homes, due to her concern with construction vehicle noise.

Mr. Felton stated that the existing driveway on lots 2 and 3 would be removed before homes were constructed on lots 1 and 2. A home currently exists on lot 3. Lot 4 will probably use the existing driveway for access and construction.

There being no further comments, Mayor Pro Tem Jilek closed the public hearing.

Council Member Carlson moved to approve the Final Plat (Felton Welch Estate) and directed staff to prepare a Resolution with the condition that the City Engineer review building plans and grades on Lots 1 and 4 prior to issuance of building permits. Council Member Rich seconded the motion. Motion carried 4-0.

Mayor Doak resumed the chair position to continue the meeting.

B. Chris & Mindy Keenan, 17737 Maple Hill Road, (Hendel Homes) request variances to alter the existing grade and modify existing impervious cover to construct a new home.

Mayor Doak opened the public hearing to consider the request for multiple variances to facilitate construction of a new, single family home.

Zoning Administrator Karpas presented an overview of the request, noting that the applicants are proposing to remove an existing non-conforming single family home and construct a new single family home which would require the alteration of grade greater than three feet and would exceed the maximum permitted height based on the base elevation of the lot as it existed on June 14, 2010. The applicant is requesting variances to rebuild the decking around the pool which would encroach into the required north side yard setback and exceed the maximum permitted accessory structure area. The applicant also proposes to remove and reconstruct an existing non-conforming lakeside accessory structure within the required lake and west side yard setback.

The applicant is proposing to remove the existing walkout structure located on the property and construct a new walkout structure. The existing grade on the property varies greatly throughout the lot. The applicant proposes a maximum grade alteration of eight feet near the southwest corner of the swimming pool. A portion of the grade alteration on the lot is necessary to comply with Section 900.13(2) of the City's ordinance which requires a minimum separation of three feet between the ordinary high water level of Shaver's Lake and bottom floor elevation.

The applicant indicates the increase in grade will be on the north side of the home between the swimming pool and the proposed home. There are a series of walls which will step up at approximately four foot intervals from the swimming pool to the north side of the home. The applicant also proposes to alter the grade by

approximately four feet in some areas along the west side of the home to create a walkout area in what is currently a look out area in the existing home. The Zoning Administrator recommended a rain garden be added to store and treat runoff.

Ms. Tracy Kirby, 3114 County Road 101, stated that she resides to the east of the subject property. Ms. Kirby noted that the existing children's play house is in disrepair and asked if the play house would be removed or repaired.

Mr. Rick Handel, owner of Hendel Homes and contractor for the Keenans stated that they intend to keep the children's play house and would consider improving the exterior appearance of the play house.

Council Member Carlson agreed that a rain garden would be beneficial to handle the run off and treat the water prior to entering Shavers Lake.

Council Member Massie agreed that the proposal is suitable for the neighborhood and supports the placement of the proposed home

Council Member Rich also agreed that the proposal will enhance the neighborhood; however, he expressed concern with the load capacity of Maple Hill Road to support the large number of truck loads of fill proposed for the development.

Mayor Doak noted that any damage caused to City streets is the responsibility of the property owners.

Mayor Doak stated that the City had adopted the ordinance limiting grade alterations to encourage owners and contractors to design houses to fit the landscape and not alter the natural landscape to fit the house. The protection of Woodland's unique natural terrain was a compelling factor in the ordinance's adoption. Mayor Doak stated that the Keenan's lot has a very uneven terrain with a great number of high and low areas, some of which are manmade. After mentally adjusting for the uneven topography, the plan is justifiable and reasonable, doing no damage to the natural state of the land.

There being no further comments, Mayor Doak closed the hearing.

Council Member Rich moved to approve the variance requests of Chris and Mindy Keenan to alter the grade five feet greater than that permitted by City Code and to exceed the maximum permitted height as measure from the grade of the lot based on the elevation on June 14, 2010 by four feet eleven inches for the proposed single family structure. And to approve the variance requests to encroach ten feet into the required thirty foot required north side yard setback and to exceed the maximum permitted accessory structure area for the proposed alteration of the swimming pool decking and to direct staff to draft Resolution for Council's review at their December 10th meeting.

Mayor Doak amended the motion to include the requirement that a rain garden be added to the swale and be approved by the Minnehaha Creek Watershed District.

Also, all construction parking be contained on the site and the City Engineer approve the drainage plan prior to construction. Council Member Massie seconded motion as amended. Motion carried 5-0.

Mayor Doak reiterated the concern expressed by Ms. Kirby, and also recommended that the play house structure be spruced up and made more presentable as part of the new construction.

NEW BUSINESS

A. Snow Removal – Breezy Heights Road

Mayor Doak thanked the Breezy Heights neighbors for participating in the Council meeting to provide input and suggestions on the snow removal along Breezy Heights Road.

Doak noted that snow removal along Breezy Heights Road is challenging due to a variety of natural features and fabricated structures. Historically the City would store snow in the west corner of the "S" curve. This area is now landscaped with plantings. The City has a commitment to safety of its residents. To maintain public safety the City has an obligation and a right to clear the street of snow. The salt sand mixture is essential to aid in melting the snow to further enhance public safety.

Mayor Doak introduced Woodland's snow plow contractor Tim Lovett.

Mr. Lovett briefly described past snow removal practices. Mr. Lovett stated that this season his team will start plowing in the "S" curve and push snow north to an open area at the end of road. The plow truck will come back into the "S" curve will push snow south down the hill. The bobcat will also be used for heavy snow loads. This technique will require the plows to back into several driveways to maneuver the snow plow trucks.

Mr. Bob Ripley, 2730 Breezy Heights Road, stated that he supports the use of the salt and sand mixture, particularly on the Breezy Point Road slope up onto County Road 101.

Mrs. Campbell stated that she appreciated the work the contractors did in the past to keep the Breezy Heights Road hill clean and sanded.

Mayor Doak distributed proposed snow removal guidelines for Breezy Heights Road which outline the City's responsibility and the responsibilities of the residents. The City will make every attempt to avoid damage to roadside amenities, but to the extent possible, residents should remove all garden amenities and clearly mark all obstructions for the safety of the plow drivers. All snow plow issues and concerns should be referred directly to the City staff and not taken up with the plow drivers. Residents should not plow snow from private property into the street. The use of

salt and sand is necessary, so salt-sensitive items along the roadside should be removed and concrete driveways should be treated to prevent damage. All residents along Breezy Heights Road will be sent a copy of the guidelines and a summary of the discussion.

Mayor Doak thanked the residents for their feedback.

B. 2013 Tree Service Agreement (Review RFPs)

The Council reviewed three quotes from tree contractors for tree removal services for a one-year contract agreement.

Council Member Rich stated that a key aspect of tree work would be emergency situations and a dependable, quick response is essential. Woodland is currently using Shorewood Tree Service.

Council Member Rich suggested that he meet with Shorewood Tree Services and Emery Tree Services to discuss their response time and emergency capabilities. Each company's bid was considered reasonable and capability and reliability factors will be discussed at the December meeting.

Council tabled the issue until the December Council meeting and will continue to use Shorewood Tree Services as an emergency contact until the Council decision.

C Canvass of Municipal Election; Resolution No. 25-2012

Council reviewed the November 6 election results for municipal Council seats and Mayor.

Council Member Jilek moved to approve Resolution No. 25-2012; approving the General Election results for Mayor and Council seats. Council Member Massie seconded the motion. Motion carried 5-0.

OLD BUSINESS

A. Load Limit Permit Discussion (continued)

Zoning Administrator Karpas provided an overview of the current road limits and spring road restrictions. The Cities of Greenwood and Deephaven adopted reduced load limits on secondary streets. Zoning Administrator Karpas provided a summary of a road use surcharge fee based on a percentage of building permit fees.

Chief Johnson asked how the Police Officers will know whether the contractor has paid the City for a load limit permit if the permits are issued as a blanket permit in conjunction with a building permit.

Mayor Doak noted that he remained concerned that basing a blanket load fee on the fees charged for building permits was difficult to justify. There appeared to be a questionable relationship between permit fees and truck loads as the value of projects increased. He requested a more tangible basis for relating blanket truck load fees and the value of projects.

Attorney Jamnik stated that using the value of the home to attach a road surcharge could be challenged. A weight surcharge is defensible versus a value based surcharge. Issuance of a permit to allow an overweight vehicle must have a direct linkage to road weight and number of trips to justify the charge. Attorney Jamnik noted that this road surcharge is not done in other cities. Mayor Doak asked if a road surcharge fee based on the building permit fee as practiced in neighboring Cities is defensible.

Attorney Jamnik reiterated that there must be a direct link of the surcharge fee to heavy truck use on the City streets. Calculating a surcharge fee based on building permit charge is an indirect link to a road surcharge and could be challenged. The City should work with qualified persons to estimate the number of trips based on the nature and value of the work. The City can create a formula for the presumed number of loads based on seven and nine ton road limits.

Attorney Jamnik stated that the road surcharge (assessment) cannot exceed the benefit. The formula to calculate truck trips must have a "release valve provision" in the presumed number of trips. Contractors must have the right to appeal the presumed trips that would exceed the road limit.

Council tabled discussion to the December Council meeting.

B. Coal Tar Sealant Discussion; Draft Ordinance Review

Council reviewed the draft language regarding coal tar sealants. Council Member Carlson will share the model ordinance with the Minnehaha Creek Watershed District for their feedback.

Council tabled discussion until the December meeting.

C. Status of Request by Denny & Mary Newell

Council Member Rich moved to remove from the table the original request from the Newell family to amend the Mutual Release Agreement. Council Member Jilek seconded the motion. Motion carried 5-0.

Council agreed that any changes to the Agreement would require a transparent process, involving all impacted parties and that the forum for change would be a public hearing. The Newells have informed the City that they do not wish a public hearing and have withdrawn their request.

MAYOR'S REPORT

Doak reported that he has spoken with residents regarding the restoration of Shavers Lake. Mr. Peter Davis will visit the Council at a future meeting to discuss the preservation plans for Shavers Lake.

Mayor Doak reported that he and staff will check the dock locations along Woolsey Channel once the Lake freezes to assure compliance with the applicable ordinances.

Mayor Doak reported that he attended a Mayors' Minnetonka School District meeting. The general election may impact State funding for school districts that have employed local levies to increase funding of schools. The presumption is that public schools across the State should have level funding as a matter of fairness. State funds may also be shifted from well funded, high achieving districts to underachieving districts with the assumption that additional funding will narrow an achievement gap. Funding for special needs will also increase. Open enrollment seems secure as a concept and is very beneficial to the Minnetonka School District.

COUNCIL REPORTS

A. Ordinances, Website & LMCC
No report.

B. Roads, Signs & Trees

Council Member Rich reported that an unused culvert on Blaine Avenue was abandoned and repairs to the shoulder were completed.

C. Finance, Enterprise Funds, Intergovernmental Relations & MCWD

Council Member Carlson reported that the water and sewer rates will increase in 2013 to ensure the debt service is satisfied and ongoing maintenance is funded. Carlson reported that a recent article in the paper regarding the eleven watershed districts in the state. The State is reviewing how the watershed boards are assembled and considering boards made up of City Officials versus elected boards.

D. Public Safety & Deer Management: Council Member Massie

Council Member Massie reported a dog in Woodland was classified as "dangerous". The owners appealed and the dangerous dog classification was upheld.

Chief Johnson reported that the dog owner's primary residence is in Edina. Chief Johnson contacted the Edina Police Department regarding the dog. The Edina Police Department required that the dog owner comply with State Laws. The owner's intention is to keep the dog and register the dog in both Edina and Woodland. The owner will pay the fees associated with the dangerous dog classification prior to bringing the dog back into Woodland.

ACCOUNTS PAYABLE

Council Member Jilek moved to approve the accounts payable as presented. Council member Rich seconded the motion. Motion carried 5-0.

TREASURER'S REPORT

Council Member Massie moved to approve the accounts payable as presented. Council member Rich seconded the motion. Motion carried 5-0.

ADJOURNMENT

Council adjourned by consent at 9:45 P.M.

ATTEST:

Shelley J. Souers, City Clerk

James S. Doak, Mayor