

**CITY OF SHOREVIEW  
MINUTES  
REGULAR CITY COUNCIL MEETING  
October 6, 2014**

**CALL TO ORDER**

Mayor Martin called the regular meeting of the Shoreview City Council to order at 7:00 p.m. on October 6, 2014.

**PLEDGE OF ALLEGIANCE**

The meeting opened with the Pledge of Allegiance.

**ROLL CALL**

The following members were present: Mayor Martin; Councilmembers Johnson, Quigley, Wickstrom and Withhart.

**APPROVAL OF AGENDA**

Mayor Martin noted that item No. 15 on the agenda will be tabled at the request of the applicant.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Quigley to approve the October 6, 2014 agenda as revised.

VOTE:                   Ayes - 5                   Nays - 0

**PROCLAMATIONS AND RECOGNITIONS**

There were none.

**CITIZEN COMMENTS**

There were none.

**COUNCIL COMMENTS**

**Mayor Martin:**

There are two weeks left for the Farmers' Market. She encouraged residents to take advantage of all the beautiful produce available.

Mayor Martin stated that she would like to set up a schedule for the Council to meet jointly with all committees and commissions.

**Councilmember Wickstrom:**

The League of Women's Voters will be holding a Candidates Forum in the Council Chambers on Tuesday, October 7, 2014, from 7:00 p.m. to 8:30 p.m. for Minnesota Legislative District Nos. 42A and 42B. All are encouraged to attend.

**Councilmember Withhart:**

The Shoreview Human Rights Commission will be holding a forum on bullying on November 6, 2014. This is free and open to the public. Detailed information is posted on the City's website.

The Environmental Quality Committee (EQC) is planning a series of speakers in 2015. Residents are encouraged to watch for the events and attend.

**CONSENT AGENDA**

Item Nos. 1 and 7 were pulled for separate consideration, as Councilmember Johnson did not attend the September 8, 2014 City Council Workshop and will abstain from voting on item No. 7.

Councilmember Withhart requested separate discussion on item Nos. 6, 10 and 12.

**No. 6. Appointment of Election Judges**

Councilmember Withhart expressed his appreciation to all those who volunteer to serve the long day during voting hours and the hours afterward to compile official results.

**No. 10. Approval of Ramsey County Cooperative Agreement/Lexington and County Road F**

Councilmember Withhart stated that it is not clear if there will be a right turn lane for northbound Lexington to turn right on County Road F. Mr. Maloney stated that there will be a dedicated right turn lane.

**No. 12. Community Center Rate Adjustments**

Councilmember Withhart asked if the Parks and Recreation Commission has reviewed the revised rates. City Manager Schwerm responded that the Commission has reviewed the new rates and recommends approval.

**MOTION:** by Councilmember Quigley, seconded by Councilmember Wickstrom to adopt the Consent Agenda for October 6, 2014, and all relevant resolutions for item Nos. 2 through 6 and Nos. 8 through 12:

2. September 15, 2014 City Council Meeting Minutes
3. Receipt of Committee/Commission Minutes:
  - Parks and Recreation Commission, June 26, 2014
  - Human Rights Commission, September 3, 2014
  - Environmental Quality Committee, September 22, 2014

- Human Rights Commission, September 24, 2014
- 4. Verified Claims in the Amount of \$2,113,392.08
- 5. Purchases
- 6. Appointment of Election Judges for November 4, 2014 General Election
- 8. Developer Escrow Reductions
- 9. Adopt Assessment of Owasso Street Reconstruction, CP 09-12
- 10. Approval of Ramsey County Cooperative Agreement - Lexington Avenue and County Road F Reconstruction
- 11. Authorize Purchase of 2013 Skidsteer Trade-In
- 12. Community Center Rate Adjustments

VOTE:                   Ayes - 5                   Nays - 0

MOTION:     by Councilmember Wickstrom, seconded by Councilmember Withhart to approve the September 8, 2014 City Council Workshop Meeting Minutes as submitted and approve the Final PUD--Kimley-Horn/Raising Cane's, Lexington Avenue, Shoreview Target 2nd Addition.

VOTE:                   Ayes - 4                   Nays - 0                   Abstain - 1 (Johnson)

## **PUBLIC HEARING**

### **VACATION - GRAND AVENUE ALLEY**

#### **Presentation by City Planner Kathleen Castle**

The City is initiating the vacation of a 20-foot platted alley in Block 3, Owasso Plat, which was platted in 1890. It is located north of Grand Avenue, east of Centre Street and south of Janice Avenue. This alley is unimproved and is serving no public purpose and is not being maintained by the City. The alley serves no public benefit, as all residences in the area have access to a public roadway. No City infrastructure is located in the right-of-way.

Notices were published for the public hearing. Notices were also mailed to 10 property owners and utility companies. Xcel has requested an easement for existing electric facilities. Four written comments were received supporting the vacation. One comment was received in opposition because the alley is used to access the back yard of the property owner's property.

Mayor Martin asked if the property will revert to individual property owners on the alley. Ms. Castle explained that the alley is 20 feet wide and will be split in half. Each property owner will gain 10 feet.

City Attorney Kelly stated that proper notice for the public hearing is complete.

Mayor Martin opened the public hearing.

**Ms. Amy Parsons**, 245 Grand, urged the Council that it is important for this land to be vacated. There are a lot of trees and green space, and she and her husband maintain it.

**MOTION:** by Councilmember Quigley, seconded by Councilmember Wickstrom to close the public hearing at 7:18 p.m.

**VOTE:** Ayes - 5 Nays - 0

Councilmember Withhart stated that the one person opposing this action makes a compelling case for vehicle access to the back yard for such things as tree trimming. Although it is a benefit to pick up 10 feet of property, it is at the cost of giving up a nice amenity of back yard access. He asked if it is possible for homeowners in this neighborhood to retain the right to have access to their back yards.

Mayor Martin asked if the Parsons should be maintaining the alley if it were not vacated. Ms. Castle stated that it is City policy that property owners adjacent to a public alley or boulevard are the responsible party for maintenance. City Manager Schwerm added that if the alley is owned by the City, fences would not be allowed. Private ownership would allow fences, which could restrict vehicle access.

Councilmember Wickstrom asked if the utility easement would restrict fences. Ms. Castle answered that could happen, as the resolution recorded for each property will show a utility easement in any title search. Mr. Schwerm noted that any fence application will trigger a review to make sure utility access is preserved. Mr. Maloney explained that the difficulty in deciding whether to allow fences is that if public access must be maintained, fences cannot be allowed because they would be built on both sides and would block access. It is difficult to have a protected right of access and allow residents to freely use their private property.

Councilmember Quigley stated that support for the vacation is 9 to 1. If property owners want fences, they will have to be moved back to allow the access. It is more common to find platting in the City that does not allow vehicle access to back yards. He supports the vacation.

Councilmember Wickstrom asked the width of the easement for Xcel.

Mayor Martin stated that private property would extend to the midline of the alley, but there would be a 20-foot easement.

Councilmember Wickstrom asked if it would be unlikely that any fences would be allowed to encroach on the easement. Ms. Castle stated that it may be possible depending on the individual application. Mr. Schwerm explained that this issue came to the City's attention because of a fence that exists within the right-of-way area. Staff does not see a need for City access and felt it makes more sense to vacate the entire alley rather than a patchwork vacation for individual homeowners as improvements are put in. The only way to preserve rights for homeowners' back yard access would be to maintain a public alley, which would mean public access for anyone.

Mayor Martin asked how Xcel would have access with fences in. Councilmember Withhart responded that individual technicians are sent in to climb the poles, if vehicle access is not possible.

Councilmember Johnson stated that it is important to note the length of time this situation has existed and that the one resident in opposition has lived in his home a long time. This action would be a significant change.

Councilmember Withhart asked if the Xcel easement would include telephone wires or other utilities. Ms. Castle stated that the easement is described as a utility easement that would include all utilities.

**MOTION:** by Councilmember Quigley, seconded by Councilmember Johnson to adopt Resolution 14-84 approving the vacation of a 20-foot platted right-of-way in Block 3, Owasso Plat, between Janice Street/Centre Street and Grand Avenue Street, reserving unto the City and all entities, private or public, an easement for utility purposes over and across the alley vacated hereby.

Discussion:

Mayor Martin stated that she would support the motion because there are many other situations like this in the City. Most of the residents impacted will appreciate this action.

Councilmember Withhart stated that he reluctantly supports the motion because he agrees with Councilmember Quigley in that 9 of the 10 residents support this action.

**ROLL CALL:** Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin  
Nays: None

## **GENERAL BUSINESS**

### **MINOR SUBDIVISION - 4325 RICE STREET, GREGORY LIVERMONT**

#### **Presentation by City Planner Kathleen Castle**

This application is to subdivide the property at 4325 Rice Street into two lots for detached single-family homes. The existing home, garage and storage shed will be removed. The property consists of 1.8 acres with 56 feet of frontage on Rice Street. The application includes an adjustment on the south lot line that abuts 4505 Rice Street where a portion of property would be combined with 4505.

The Planning Commission reviewed the application at its September 23<sup>rd</sup> meeting and approved the variance that creates Parcel A with no frontage on a public roadway. A number of members from the public spoke in support of the proposal because the application results in less impact to neighbors than previous proposals for this property.

The property is zoned R1 Detached Residential with a land use designation for low density residential (0 to 4 units per acre), the same as properties to the east and south. Adjacent properties to the north and west are zoned Medium Density Residential (4 to 8 units per acre); and on the southwest is property zoned High Density Residential (8 to 20 units per acre).

There is a utility easement and public road easement. Parcel C would be combined with 4505 Rice Street. The parcels comply with required dimensional lot standards for R1 zoning. They are key lots with side yard lines abutting rear lot lines. Both proposed lots meet setback requirements for key lots.

Access will be from Rice Street with a shared driveway that must be a minimum 12-foot width and 13-foot clearance for emergency vehicles. A private easement and maintenance agreement are required for the shared driveway. A private utility easement will be needed for Parcel A. A wetland buffer of 16.5 feet is proposed. Drainage flows south to a pond and historic drainage patterns will remain.

Property owners within 350 feet were notified of the proposal. Three comments were submitted expressing concerns about the loss of mature trees. However, residents also expressed appreciation for this proposal which has much less impact than previous proposals.

Ramsey Washington Metro Watershed District does not require a permit; the 16.5-foot wetland buffer is acceptable. Ramsey County Public Works indicated that the Rice Street right-of-way must be increased to 50 feet to comply with the County Plan for that road. There is a local public road easement that will accommodate the increase the County requires. A separate easement is not necessary. Lake Johanna Fire Department expressed no concerns for the proposal.

Staff finds that the proposed parcels comply with R1 standards. With approval by the Planning Commission of the variance, staff is recommending approval of the subdivision.

Councilmember Wickstrom asked if Parcel C is for the purpose of continued access to 4505 from the driveway. Ms. Castle answered that Parcel C adds depth to the property at 4505 because the driveway portion to that property is so short. The property owners at 4505 will be a party to the driveway easement and maintenance agreements.

Councilmember Withhart asked if consideration was given to a public street rather than a private drive with easements. A public street would eliminate the flag lot issues. Further, he asked the orientation of the proposed new homes. Ms. Castle stated that a public street would require public road standards, which would create a financial hardship for only two parcels. No future development is anticipated. There are no house plans at this time that indicate house orientation. Ms. Castle indicated side and rear lot lines for the two parcels on a map. The buildable area on Parcel B is restricted because of the utility easement. It is her understanding that the property owner plans to build where the existing home is located so as to prevent more site disturbance.

Councilmember Withhart asked if the private driveway is being allowed on the public road right-of-way and whether the City has the responsibility to maintain it. Ms. Castle stated that although

the driveway is within the public road right-of-way, the required development agreements will stipulate that it is to be privately maintained.

Mayor Martin noted that the Ramsey County Plan calls for a 50-foot half width which is an added 10-foot easement to Rice Street. Ms. Castle explained that because of the existing local public road right-of-way, that addition can be accommodated.

Councilmember Withhart noted that one comment received from an adjacent townhome resident raised the issues of additional plantings on the townhome complex property as was considered in previous applications. Ms. Castle stated that there are only a small number of trees anticipated to be replaced, and there is adequate space for the replacements on the subject property.

Planning Commissioner Peterson stated that the issue of removal of trees was discussed. Planning Commissioners who had served on the Commission for a period of time noted that this is the best proposal that has come forward for this site. Other applications were much more intense and would have removed many more trees. The Commission was also impressed with the prospective property owners who expressed a sincere intent to place homes so that as many trees as possible would be retained.

**Mr. Greg Livermont and Mr. Troy Wangler**, Applicants, stated that they are aware this property was approved for a subdivision of six lots. They only intend one subdivision into two parcels. No removal of trees on the perimeter of the property would occur. Only a very few trees will be removed to build two new homes.

**MOTION:** by Councilmember Johnson, seconded by Councilmember Withhart to approve the minor subdivision request submitted by Greg Livermont to divide the property at 4525 Rice Street into two parcels for single-family residential, and to authorize execution of the development agreements, subject to the following conditions:

1. The minor subdivision shall be in accordance with the plans submitted, prepared by Alliant Engineering dated September 9, 2014.
2. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
3. Public easements for drainage and utility, and a 16.5 foot wetland buffer shall be conveyed to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
4. Municipal water and sanitary sewer service shall be provided to both lots. Private easements shall be reviewed and approved by the City Attorney prior to recording. The private utility easements shall be conveyed prior to issuance of a building permit by the City.
5. Any work in the Rice Street right-of-way is subject to the permitting requirements of Ramsey County.
6. Parcel C shall be conveyed only to the owner of the property located at 4505 Rice Street, and shall be combined with the existing parcel for tax purposes.

7. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
8. A tree protection plan shall be submitted prior to issuance of a building permit (including the demolition permit). The approved plan shall be implemented prior to the commencement of work on the property and maintained during the period of construction. The protection plan shall include wood chips and protective fencing at the drip line of the retained trees.
9. An erosion control plan shall be submitted with the building permit application for each parcel and implemented during the construction of the new residence.
10. A final site-grading and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit.
11. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
12. The driveway shall be developed with a minimum 12-foot width and 13-foot height clearance.
13. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This motion is based on the following findings:

1. The subdivision is consistent with the policies of the Comprehensive Plan and in compliance with the regulations of the Development Code.
2. The proposed lots conform to the adopted City standards for the R-1 District.

Discussion:

Councilmember Withhart noted at least two other proposals for this property. This is the best use he has seen. It is a good development solution to a difficult property.

ROLL CALL:           Ayes: Quigley, Wickstrom, Withhart, Johnson, Martin  
                               Nays: None

**CONDITIONAL USE PERMIT - 1349 MEADOW AVENUE - KYLE AND COLLEEN BAKER**

City Planner Castle stated that the applicant has decided to look at other options for the proposed garage after listening to the Planning Commission discussion and neighbors' concerns. It is recommended this matter be tabled with an extended review period from 60 to 120 days. She anticipates that there will be significant changes to the plan, so that it will need to be reviewed again by the Planning Commission before being considered by the City Council.

City Attorney Kelly noted that the request was submitted in writing to the City pursuant to Minnesota Statute 15.99, Subdivision 3, Paragraph g.

Councilmember Wickstrom requested that the proposal submitted to the Council not be a sketch but a definite plan showing exact placement of the garage.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom that the request of the applicant, Kyle Baker, and the Conditional Use Permit application is tabled in order to provide the applicant the additional time needed to explore the options regarding the proposed accessory structure on their property at 1349 Meadow Avenue. The revised plans shall be forwarded to the Planning Commission for review before being heard by the City Council. That review period is extended from 60 to 120 days.

Discussion:

Mayor Martin stated that the Planning Commission expressed concern about potential use of this addition to the house and wanted to prohibit any business or commercial use, which is difficult to enforce. She asked if there is a way that issue can be addressed. Ms. Castle responded that a Conditional Use Permit resolution states specifically what is approved and is recorded with Ramsey County. Future property owners will be on notice of the Conditional Use Permit. These types of approvals generally prohibit any commercial use. Evidence of commercial activity can mean citations, court action or revocation of the Conditional Use Permit.

**ROLL CALL:** Ayes: Wickstrom, Withhart, Johnson, Quigley, Martin  
Nays: None

### **APPROVAL OF PROPOSAL WITH GRANICUS FOR LIVE STREAMING OF MEETINGS AND EVENTS**

#### **Presentation by City Manager Terry Schwerm**

In August, the Council authorized a letter to be sent to withdraw from the North Suburban Communications Commission (NSCC), effective at the end of the year. Although, the City has the right to rescind this letter, staff has begun the necessary planning to continue broadcasting and web streaming of City Council meetings. As part of the Joint Powers Agreement with NSCC, City Council and Planning Commission meetings are broadcast on CTV. The City intends to continue the broadcasts and web streaming provided by the NSCC.

Staff has looked at various options for the web streaming of Council meetings. The one that best meets City needs is a proposal received from Granicus. This company specializes in cloud-based software programs for government organizations. This Transparency Suite program focuses on agenda management and distribution of content through web streaming. A proposal for only web streaming was received that includes the equipment, training and tools to stream the meetings and allow for playback on the City's website. It allows unlimited cloud access and storage as well as on-demand streaming for up to 50 users at one time. It also allows indexing of current agendas, which would be a beneficial addition to the service. The total cost is \$3,500 plus a monthly hosting fee of \$500. It is important to make the purchase at this time because a 90-day time frame is needed for installation and training. If the City were to continue its membership in the NSCC, this technology could be used. The increase in cost would be approximately \$2,000 a year. Many other cities also successfully use this technology including at least one in the NSCC.

Councilmember Quigley noted that Granicus has a good reputation in this field. He asked the length of the agreement. Mr. Schwerm stated that the agreement is for one year and would be paid from franchise fees, but could be extended for a longer period.

Councilmember Johnson stated that Granicus is state of the art that would provide residents increased speed. Although there is a slight increase in cost, she believes it is well worth the cost and fully supports this proposal.

Councilmember Wickstrom stated that this will be an improvement whether or not the City stays with the NSCC. Because Granicus offers state of the art technology, they will be on top of any future technology changes.

Councilmember Withhart emphasized that even with the City's withdrawal from the NSCC, the Council and Planning Commission meetings will continue to be broadcast. It is hoped that cable rates will decrease with additional funds coming into the City. Looking at the total picture of broadcasting and web streaming, it is a big savings to the City.

Mayor Martin noted that one of the mayors she works with at the Regional Council of Mayors indicated that they also use Granicus in her community and are very satisfied with the service.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Johnson to approve the proposal by Granicus, Inc. for their Government Transparency Suite to allow for live streaming of meetings and events, on-demand streaming and linking of related documents for a one-time cost of \$3,500.00 with a fee of \$500 per month for the length of the agreement.

Discussion:

Mayor Martin thanked City Manager Schwerm and Rebecca Olson for the time taken to research and address this issue.

**ROLL CALL:** Ayes: Withhart, Johnson, Quigley, Wickstrom, Martin  
Nays: None

### **APPOINTMENTS TO THE ECONOMIC DEVELOPMENT COMMISSION (EDC)**

City Manager Schwerm reported that there are two vacancies for appointment through the resignations of David Lukowitz, a long time member, and Gene Marsh who also served on the Economic Development Authority. Three applications were received. The EDC interviewed the candidates and recommend the appointment of Michael Tarvin to complete the term of David Lukowitz, which expires on January 31, 2017; and Kirk VanBlaircom to complete Gene Marsh's term, which expires January 31, 2015. Staff is recommending Mr. VanBlaircom's appointment be for a full-three year term.

MOTION: by Councilmember Johnson, seconded by Councilmember Wickstrom to appoint the following persons to fill two vacancies on the Economic Development Commission: Michael Tarvin to complete the term of David Lukowitz, expiring January 31, 2017; and Kirk VanBlaircom to complete the term of Gene Marsh, expiring January 31, 2015 and a new three-year term expiring January 31, 2018.

ROLL CALL: Ayes: Johnson, Quigley, Wickstrom, Withhart, Martin  
Nays: None

**SPECIAL ORDER OF BUSINESS**

Councilmember Withhart requested time at a future workshop meeting for the Council to discuss the issue considered by the Parks and Recreation Commission regarding family changing rooms. City Manager Schwerm noted that this discussion will be part of the Council's review of the Capital Improvement Program at the next workshop meeting.

**ADJOURNMENT**

MOTION: by Councilmember Withhart, seconded by Councilmember Johnson to adjourn the meeting at 8:15 p.m.

VOTE: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 20<sup>th</sup> DAY OF OCTOBER 2014.

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Terry Schwerm  
City Manager