

**CITY OF SHOREVIEW
MINUTES
REGULAR CITY COUNCIL MEETING
July 19, 2010**

CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Shoreview City Council was called to order by Mayor Martin on July 19, 2010, at 7:00 p.m.

PLEDGE OF ALLEGIANCE

The meeting opened with the Pledge of Allegiance to the flag.

ROLL CALL

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

APPROVAL OF AGENDA

It was the consensus of the Council to add an item to the *Special Order of Business* portion of the meeting regarding the recent Minnesota Supreme Court decision on variances.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Huffman to approve the July 19, 2010 agenda as revised.

VOTE: Ayes - 5 Nays - 0

PROCLAMATIONS AND RECOGNITIONS

There were none.

CITIZEN COMMENTS

Mr. Tom Lemke, 5577 Schutta Road, stated that he is representing the Shoreview Northern Lights Variety Band to thank the Council, City and members of the community for their attendance at the inaugural Community Band Festival with bands from Shoreview, Bloomington, Plymouth and Robbinsdale. The event was well received. The next festival is being planned for 2012, as an international band festival. He expressed appreciation for City support and the use of City facilities.

Mayor Martin noted that the Shoreview Community Foundation made one of its first grants to the band.

Councilmember Withhart added that the band is a great ambassador for the City, which has played all over the Twin Cities and in Wisconsin.

Mr. Lemke announced that the band is seeking new members and is open to anyone who can play wind or percussion instruments. The band consists of approximately 65 members and offers two formal concerts each year in addition to six or eight concerts each summer. No auditions are required.

COUNCIL COMMENTS

Mayor Martin:

A reminder to all residents that this weekend, July 23-25, is the *Slice of Shoreview*. There will be fireworks and the Rockin' Hollywoods on Saturday night. The parade is Saturday morning.

The Farmers' Market, with wonderful produce, is every Tuesday from 3:00 to 7:00 p.m.

Night to Unite (formerly National Night Out) will be Tuesday, August 3, 2010. Neighborhood block parties should register with the Sheriff's Department so that representatives from the Sheriff's Department, Fire Department and City Council will visit your individual block party.

In August, a new community event will begin, *Friday Night Flix*. Outdoor family movies will be shown at the pavilion, starting at dusk. The first movie will be *Cloudy with A Chance of Meatballs*.

Councilmember Withhart:

Noted that he will not be able to attend the August 2, 2010 Council meeting.

Councilmember Wickstrom:

The number to call to register for *Night to Unite* is 651/266-7339. Residents can also register online at www.co.ramsey.mn.us/sheriff/nationalnightout.

The Shoreview Green Community tours will be July 31, 2010, from 12:30 to 5:00 p.m. Six locations are on the tour on Saturday and five locations on Sunday, August 1, 2010.

Congratulations to Will Sulzbach, one of the Ramsey County Senior Citizens of the year.

CONSENT AGENDA

MOTION: by Councilmember Huffman, seconded by Councilmember Quigley to adopt the consent agenda of July 19, 2010, approving the necessary motions and resolutions for item Nos. 1 through 13, excluding No. 3:

1. June 14, 2010 City Council Workshop Meeting Minutes
2. June 21, 2010 City Council Meeting Minutes
4. Receipt of Committee/Commission Minutes:
 - Planning Commission, April 27, 2010
 - Planning Commission, May 25, 2010
 - Economic Development Authority, June 14, 2010
 - Economic Development Commission, June 22, 2010
 - Environmental Quality Committee, June 28, 2010
5. Monthly Reports:
 - Administration
 - Community Development
 - Finance
 - Public Works
 - Park and Recreation
6. Verified Claims in the Amount of \$587,280.81
7. Purchases
8. License Applications
9. Developer Escrow Reductions
10. Establish Project & Authorize Ad for Bid for Lift Station Renovation and Repairs, CP 10-02
11. Accept Quote for Trail Rehabilitation, CP 10-07
12. Comprehensive Sign Plan Review - Green Mill, 1000 Gramsie Road
13. Revised Resolution for Livable Communities Demonstration Account Grant

VOTE: Ayes - 5 Nays - 0

MOTION: by Councilmember Quigley, seconded by Councilmember Wickstrom to approve item No. 3 of the July 19, 2010 City Council consent agenda, July 12, 2010 City Council Special Meeting Minutes.

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

Councilmember Huffman abstained, as he did not attend the July 12th meeting.

PUBLIC HEARINGS

CONDITIONAL USE PERMIT (DETACHED ACCESSORY STRUCTURE) - MORRIS, 948 COUNTY ROAD I

Presentation by City Planner Kathleen Nordine

The Planning Commission reviewed this application and approved the variances requested. However, due to an error in publication for the public hearing for the Conditional Use Permit, the public hearing is being held by the Council.

The property is located on the north shore of Turtle Lake. The applicants propose to tear down the existing home, build a new home with an attached two-car garage and replace an existing 901 square foot detached garage with a detached garage of 576 square feet. The home would be approximately 3,000 square feet with a walkout basement. Pervious pavers will be used for the patio and driveway. The setbacks of the proposed detached garage are in compliance with 20 feet from the front lot line and 10 feet from the side lot line. City Code allows a maximum detached accessory structure of 288 square feet, if the home has an attached two-car garage. The proposed detached garage would replace a much larger detached two-story house garage. The new detached garage is planned for storage of seasonal equipment.

Staff finds the request to be reasonable. The existing 901 square foot detached two-story garage could be rebuilt at the same size as a legal nonconforming structure. The proposed detached garage complies with the criteria of a conditional use permit, except for its size. The total accessory structure area would be 1,572 square feet or 52% of the living area, which is less than the 90% specified by the Code. The size of the house will make it the dominant structure on the property.

Residents within 350 feet were notified of the application. One telephone call was received in support of the project. One comment was received expressing concern about landscaping and proximity to the lake. The Planning Commission approved the variances needed and recommends approval of the conditional use permit.

City Attorney Filla stated that he has reviewed the affidavits for public hearing, which indicate that the required notices have been given, and the public hearing is in order at this time.

Mayor Martin stated that the approved variances have not been appealed. The only issue before the Council is the conditional use permit for the detached accessory structure. She opened the public hearing at 7:34 p.m.

Planning Commissioner Larry Feldsien stated that Commissioners were troubled by the amount of increase over the Code allowance for the detached accessory structure. In looking at the lot configuration, it was decided to move forward.

There were no further comments or questions from the public.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Quigley to close the public hearing at 7:35 p.m.

VOTE: Ayes - 5 Nays - 0

Councilmember Withhart stated that approval would not limit a future owner from using the detached structure as a garage. Future use is not limited. The structure does fit the neighborhood. He asked what pervious surface material is being used for the detached garage. **Mr. Morris**, Applicant, stated that a type of plastic that allows grass to grow through it will be laid in a hollow in the ground.

Councilmember Wickstrom stated that many houses in the neighborhood have a second garage close to the street. Especially with the use of pervious pavers and pervious surface for the driveway to the detached garage, she would support the request.

MOTION: by Councilmember Withhart, seconded by Councilmember Quigley to adopt Resolution 10-60 approving the Conditional Use Permit for Joseph and Teresa Morris to construct an accessory structure 576 square feet in size on their property at 948 County Road I, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The attached garage shall not exceed 996 square feet in area, the detached garage shall not exceed 576 square feet in area, and the total floor area of all accessory structures shall not exceed 1,576 square feet. The shed on the lakeside of the proposed house shall be removed prior to issuance of a building permit for the project.
3. The exterior of the detached garage must use materials and colors to complement the exterior finish of the new house. The color used shall comply with the architectural design standards for substandard riparian lots.
4. The peak height of the detached garage shall not exceed 18 feet and the upper storage area shall have a height not to exceed 6 feet. The detached garage shall be set back a minimum of 10 feet from the side lot line.
5. The accessory structures, attached and detached, on the property shall be used for personal use only and no commercial use/commercial related storage is permitted.
6. This approval will expire after one year if a building permit has not been issued and work commenced.

The approval is based on the following findings of fact:

1. The property has been developed with two detached accessory buildings and an attached two-car garage since 1970. The proposed detached garage will not have an adverse impact on the nearby properties in this lakeshore neighborhood where detached garages near the street area a common feature.
2. The 576 square foot detached garage is permitted pursuant to variances approved June 22, 2010 by the Planning Commission and has been designed to complement the primary structure. The proposal meets the spirit and intent of the Code.
3. The land use complies with the designated land use of the Comprehensive Plan.

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

VACATION REQUEST - AANENSON, 3288/3294 OWASSO HEIGHTS ROAD

Presentation by City Planner Kathleen Nordine

This application is a request for the vacation of a municipal sanitary sewer easement on his property at 3288 and 3294 Owasso Heights Road. The house at 3294 will be demolished, the two parcels combined and an addition will be built onto the home at 3288.

The sewer line serves only these two properties owned by the applicant. Topography of the site makes it difficult to access this portion of the sewer for maintenance work. It will be the obligation of the property owner to assume private ownership of the easement and manage maintenance of the sewer line. A private easement and maintenance agreement are required by the City.

Utility companies were notified. Xcel Energy has no objections. Residents within 350 feet were notified and no comments were received. Staff is recommending approval of the vacation with the conditions listed in the staff report.

Mayor Martin asked what happens if there is a problem with the pipe on the applicant's property that affects the neighbors to the north or south. Mr. Maloney explained that the sewer section is over 3288 and ends there. Its purpose is to serve 3288 and 3294. Public interest will terminate at the northern property line of 3288. There is sufficient easement to the south to provide maintenance. A private easement arrangement will be required between the applicant and his neighbor. The sewer line will be a private service line. The agreement between the applicant and his neighbor is similar to other riparian properties in the City. The pipe is designed to be a public sanitary sewer but did not continue south beyond these two properties. The impact of the proposed plans would not work with public access and a public easement.

City Attorney Filla stated that the private agreement must be in place and recorded before the City vacation is effective. Further, he stated that he has seen the affidavits of notice for the public hearing, which is in order at this time.

Mayor Martin opened the public hearing at 7:34 p.m. There were no comments or questions from the public.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Quigley to close the public hearing at 7:35 p.m.

VOTE: Ayes - 5 Nays - 0

Councilmember Withhart asked if the property to the north is public sewer. Mr. Maloney stated that the sewer line to the north remains as it is. A manhole will mark the end of the public sewer line with and access easement.

MOTION: by Councilmember Huffman, seconded by Councilmember Wickstrom to adopt Resolution 10-61 approving the vacation of the utility easement located at 3288 and 3294 Owasso Heights Road, effective upon completion of the following conditions:

1. The demolition of the house and garage at 3294 Owasso Heights Road;
2. Application to Ramsey County to combine Lots 25, 26, 60 and the north 4 feet of Lot 27, Lake Owasso Heights into a single tax parcel; and
3. Recording the private easement and maintenance agreement for the private sanitary sewer infrastructure serving 3288 and 3282 Owasso Heights Road.

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

GENERAL BUSINESS

APPOINTMENT TO PUBLIC SAFETY COMMITTEE

City Manager Schwerm stated that Mendee Bayless-Tarnowski resigned thinking she would be moving out of state. Plans have changed and she will be remaining in Shoreview and would like to continue to serve on the Public Safety Committee. She only missed one meeting and attended the most recent meeting to show her interest. She has been an active member for approximately three years. There are vacancies on the committee, and he recommended she be reappointed.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to appoint Mendee Bayless-Tarnowski to the Public Safety Committee for a term ending January 31, 2013.

VOTE: Ayes - 5 Nays - 0

SPECIAL ORDER OF BUSINESS

City Attorney Filla stated that the state statute defining undue hardship has not changed in the last 20 years until last week with the Supreme Court interpretation of one part of the undue hardship test. Currently, the statute states that hardship exists if a property cannot be put to reasonable use under conditions allowed by the Development Code of the City Code. That standard has always been in place. The City Code is in compliance with the state statute. The Supreme Court stated that the statute is clear--the standard is whether the property can be put to reasonable use under the statute. In light of other appellate court decisions, the standard that has begun to be used is whether the application request is a reasonable use. A determination must still be made about reasonable use under the statute, but it may be more difficult in some cases to

accept an application for a variance. If a property has single-family use, it may be more difficult to tear down an old house and build a new one, if the new one requires variances.

Mr. Schwerm stated that the League of Minnesota Cities is considering proposing legislative changes. Under the strict interpretation, it may be more difficult to grant variances. Hopefully it will not impact the City's effort to work with property owners to improve their property within the confines of City ordinances.

ADJOURNMENT

MOTION: by Councilmember Withhart, seconded by Councilmember Huffman to adjourn the meeting at 7:45 p.m. on July 19, 2010.

ROLL CALL: Ayes - 5 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 2nd DAY OF AUGUST 2010.

Terry C. Schwerm
City Manager