



**MINUTES
CITY COUNCIL MEETING
November 12, 2024**

CALL TO ORDER

The meeting was called to order at 6:30 pm.

Present: Mayor: Charlie Miner; Council: Jahn Dyvik, Mike Feldmann, and Deirdre Kvale

Staff Present: City Administrator: Scott Weske; City Attorney: John Thames; and Assistant Fire Chief: Cody Farley

Absent: Council: Gina Joyce (with prior notice)

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENTS – LONG LAKE NEWS, MEETING REVIEW AND UPDATES

Mayor Miner offered the following comments and updates:

Prior to the City Council meeting, the Economic Development Authority met and discussed a proposal received for City-owned land at the former BP gas station site.

The Council also met as the Canvassing Board before the regular meeting to certify the City's local election results. Mayor Miner expressed his appreciation to City Clerk Moeller and the City's election judges for the great work that they did on the election. City Clerk Moeller had reported at the Canvassing meeting that the City had 1,214 voters cast ballots in the General Election, with 743 of those on election day, and representing 94% voter turnout for the City. He congratulated Council member Feldmann for being re-elected and also to incoming Council member Newcomer for his election. He also thanked residents for their support in voting him in for another two-year term as Mayor.

Mayor Miner noted that he had a lot of trick-or-treaters at his house on Halloween which was great to see.

APPROVE AGENDA

A motion was made by Feldmann, seconded by Dyvik, to approve the agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of the following:

- A. Approve Minutes of November 5, 2024, City Council Meeting
- B. Approve Vendor Claims and Payroll
- C. Approve Payment No. 3 (Final) to Valley Paving for \$4,513.89 for the 2023 Pavement Rehabilitation Project
- D. Accept the Resignation of Firefighter Kennedy Wright from the Long Lake Fire Department

- E. Adopt Resolution No. 2024-49 Approving Issuance of Special Event Permit #S2024-09 for the 2024 Long Lake Holiday Tree Lighting Ceremony to be held in Holbrook Park on Friday, December 6, 2024; Approve issuance of a Noise Variance Permit for the Event.
- F. Adopt Resolution No. 2024-50 Appointing Resident Leslie Buehler to the position of Park Board Member serving a term effective through December 31, 2025

Mayor Miner highlighted Consent Agenda Item D, the resignation of firefighter Kennedy Wright, who had served on the Fire Department for five years. He indicated that his service was much appreciated, and Mr. Wright was departing in order to join the Mound Fire Department. Departures of this nature have become another side effect of the current legal situation with Orono. Long Lake and the Fire Department will be saddened to see him leave, but extend well wishes to him in his new position of service to Mound.

He also pointed out that Consent Agenda Item E was for approval of the permit for the City's Holiday Tree Lighting ceremony which will take place on Friday, December 6, 2024 at Holbrook Park. He noted that Consent Agenda Item F will appoint Leslie Buehler to serve on the Park Board through the end of 2025.

*A motion was made by Dyvik, seconded by Feldmann, to approve the Consent Agenda, as presented.
Ayes: all.*

OPEN CORRESPONDENCE

No one was in attendance to address the City Council during Open Correspondence.

BUSINESS ITEMS

Discuss Final Invoice from Hennepin County for CSAH 112 (Wayzata Boulevard W) – Phase 1 Project

City Administrator Weske reminded the Council that in December of 2016, the City had entered into a Construction Cooperative Agreement with Hennepin County for Phase 1 of the CSAH 112 reconstruction project that would include utilities, street lighting, and pedestrian improvements from Willow Drive to Wolf Pointe Trail. He noted that the project was closed out in 2020, but now the County was requesting a final payment. He explained that the project breakdown and quantities have been reviewed by WSB and they believe everything has been accounted for, but noted that there did not appear to be anything included for the legal process and discussions.

Council member Dyvik asked what legal discussions he was referring to.

Weske responded that it would be for negotiating value of the right-of-way and explained that the County had representatives at tonight's meeting if the Council had any questions for them.

Council member Dyvik asked if that would be related to land that was acquired.

Weske confirmed that was his understanding.

Council member Kvale referenced the table within the letter from the County which showed the right-of-way anticipated costs at almost \$15,000 and then showed the final participation cost at \$20,000. She questioned if that was part of what the City was expected to pay to the County and asked if that was the right-of-way.

Weske believed that had to do with the trail being moved from the south side to the north side.

Council member Kvale noted that she thought that may have been for the consulting service to move the trail where the City had paid \$133,000.

Weske clarified that the \$133,000 expense was for the design.

Council member Kvale asked if there was litigation involved in the right-of-way acquisition.

Weske replied that was where he did not have full knowledge of the situation but added that the litigation was why there had been a hang up on final invoicing from the County.

Council member Kvale asked why they could not have had an interim invoice.

Weske responded that, per the contract, they could not have had an interim invoice.

Council member Dyvik referenced the table from the County letter and asked what the Construction line item was for \$118,000.

Weske clarified that would be the 5% project retainer plus any overages.

Council member Kvale wondered whether the City was supposed to put down 50%.

Weske recalled that the City had put down 50% at the beginning of the project, and then through the process, there was 45% for a second payment.

Mayor Miner asked if the County representatives wanted to come up and shed any light on the Council's questions.

Council member Kvale commented that she had read through the contract and found it confusing because they used different terms for the same thing, for example, 'construction engineering' and 'construction administration'.

City Attorney Thames suggested that the representatives from the County could probably offer some clarity on those things.

Neil Nivinacki, Deputy County Engineer, explained that construction administration was generally engineering services to build the project which means there is engineering staff out in the field doing measurements and quality testing. Engineering services would be the design engineering, and the construction line item would be for the actual construction payment of quantities and various items that were built with the project.

Council member Kvale asked if the construction engineering was the same as construction administration within the contract. She mentioned that the numbers are the same, but used different terminology.

Mr. Nivinacki apologized for the confusion and clarified that they do use the two terms interchangeably.

Council member Feldmann observed that the project was closed out in 2020, but this bill had come in late. He asked if the project was now fully closed out with all inspections and final items completed.

Mr. Nivinacki responded that at this point, everything was closed out and the pending legal matters did not apply to Long Lake specifically; however, they are part of the overall contract and needed to be considered as the County was preparing their final project reconciliation and close-out process. He confirmed that this would be the final invoice the City would receive.

Council member Kvale sought additional details on the litigation.

Mr. Nivinacki explained that the County acquires temporary and permanent easements along the corridor for these types of projects as needed. The majority of the time, those negotiations go very well and they go through the right-of-way process on the front end of projects; but when they do not go well, they can linger on for a long time within the court system. For this project, there were a few parcels that did take a long time, but those have now been resolved enabling the County to close out the project. He clarified that the right-of-way amount that they were seeing in the final invoice was not related to that issue.

Mayor Miner asked how many phases there were for this project.

Mr. Nivinacki indicated that there were three phases, and Phase 1 and Phase 2 have been completed.

Council member Dyvik questioned if the City was also going to be getting a bill for Phase 2.

Mr. Nivinacki stated that he believed that had been included.

Weske clarified that there had been a bill received for Phase 2, but it was not included in this invoice. He added that the Phase 2 bill final invoice amounted to only around \$15,000.

Mr. Nivinacki noted that from a construction standpoint, Phase 3 was nearing completion and is considered substantially complete.

Council member Kvale asked if the City would then also receive a bill for Phase 3.

Council member Dyvik indicated that he did not think Long Lake had a large portion of the Phase 3 project.

Weske agreed and shared his belief that the bill for Phase 3 would not be a large dollar amount.

Council member Feldmann pointed out that the Phase 1 invoice is a pretty significant amount and noted that he was a bit surprised, given the percentage that amount would represent of the City's levy.

Council member Dyvik added that the invoice payment source would be the turnback funds.

Weske stated that the City had bonded for its portion of the project and the funds were accounted for within the audit. He explained that, technically, this money should be sitting in an account and earmarked only for this payment. He stated that he would have to talk to the auditors about which account the invoice should be paid from.

Carla Stueve, Hennepin County, commented that she understood the invoice was for a large dollar amount and added that the County was open to working with the City on some sort of payment plan option if desired.

Council member Feldmann asked if that conversation could be taken offline or if staff needed direction from the Council.

Weske responded that if the Council wanted to give staff parameters, they could do so.

Council member Kvale mentioned that she thought there were things spelled out within the contract regarding payment and interest, and wondered whether the County would be willing to waive the interest if payment was deferred, based on the contract terms.

City Attorney Thames explained that there was not a specific provision within the contract related to the date the bill was due, and that the only billing date was the date that comes from the County to the City. He noted that the information he felt the County was providing tonight was the justification for why the billing was later than anticipated.

Council member Kvale stated that the contract talked about penalties for late payment.

Thames replied that he did not think the County was pursuing anything like that and was just providing information about why they were asking for the payment.

Council member Dyvik commented that he would like to see what the City had set aside for the payment and then have a conversation with the County about payment options.

Weske committed to reviewing the fund location for the dollar amount that the City had set aside, but noted that the Council could still move forward with a motion to approve payment.

The Council discussed details surrounding payment options.

A motion was made by Kvale, seconded by Dyvik, to approve the final payment for Hennepin County for the CSAH 112 (Wayzata Boulevard W) – Phase 1 Project in the amount of \$153,677.06; to direct staff to take the money from any bonding account the City had that was specifically designated for payment of these costs; and if those funds were not sufficient, to bring this item back to the Council in order to make a determination of what proceeds would be used to pay the obligation, and to work with Hennepin County on the payment method and timing.

Council member Dyvik shared that he had been one of the people that had pushed for the trail to be moved to the other side of the road, and he felt it had been worth the money as having the trail along the lake is a benefit to the community.

Ayes: all.

Approve Purchase of a 2007 Toyne Fire Truck for the Long Lake Fire Department

Assistant Fire Chief Farley reported that about three weeks ago, the LLFD had taken in the 2007 Toyne fire engine from the Excelsior Fire District. The LLFD graphics have been placed on the truck so it was at home among the rest of their vehicles. He explained that there will be a requisite amount of drive time that their operators will need to put in the vehicle before they will be able to drive it to a scene, but he

expected that to take place over the next few weeks. When that process has been completed, they would then pull equipment off of the existing Engine 11 and install it onto this truck, which would become the new Engine 11.

Council member Dyvik asked how the tires were on the vehicle.

Weske replied that the tires were brand-new.

Farley noted that the pump was also just gone through by the company that services all the LLFD apparatus, and everything checked out.

Council member Dyvik wondered if the plan was to then turn around and sell the old Engine 11.

Farley confirmed that the plan was to eventually sell the former Engine 11.

Council member Dyvik asked if the City would be able to put some of that sale money towards this purchase.

Weske responded that they could use their 5% portion, give or take, of what the sale price was or they could roll it into something else, depending on what the future looks like.

Council member Dyvik asked if the LLFD had sold the big rescue vehicle.

Farley noted that the Department was still talking about whether the old Rescue 12 may have any future value.

Council member Dyvik observed that the LLFD would be getting another utility truck soon.

Farley added that the rescue pumper that they will be receiving will be a replacement for Utility 11. He noted that Rescue 12 does have a purpose, but it is fairly limited in its use. They do not currently have a replacement plan for what it is used for, so it remains an active member of the fleet.

Mayor Miner asked if there were any updates on the arrival of the new utility vehicle.

Farley believed that it should be arriving in early January.

Council member Feldmann questioned if the LLFD would also be getting some jaws of life with the vehicle.

Farley confirmed that they would be obtaining some jaws of life that will be a backup set.

A motion was made by Dyvik, seconded by Miner, to approve the purchase of a 2007 Toyne fire truck and accessories from the Excelsior Fire District in the amount of \$104,000 as agreed upon between the Excelsior Fire District and the City of Long Lake, and to authorize the City Administrator to pay any taxes or fees that may be associated with this purchase.

Council member Kvale stated that her understanding was that this vehicle would have a pretty good resale, if necessary.

Farley agreed that there would be other fire departments that would find value in it, just like the LLFD had.

Weske confirmed that the purchase would be allocated to the City's Fire Capital Fund.

Ayes: all.

Farley pulled up a photo of the truck on his phone to display for the Council.

Review Rough Draft of Cannabis and Cannabis Business Regulations Ordinance.

Thames noted that the state legislature had passed cannabis regulations that would take effect in full at the turn of the calendar year. The City currently has a moratorium in place to control any business applications while the City planned for the rollout. He noted that he believed that the City was probably looking at having a dual rollout with both business regulations and zoning regulations. The Office of Cannabis Management (OCM) had offered a model ordinance, which Thames ended up utilizing and had worked through it to adapt it according to the feedback he had gotten from the Council in the past. The input he felt the Council had given him was to limit the number of cannabis businesses locally as much as possible. He reminded the Council that in 2023, they had dealt with low potency hemp edibles, and staff is proposing to repeal and replace that ordinance with a new ordinance so they would also be included in this regulation. He added that a zoning ordinance update will have to go through the Planning Commission at their next meeting, and then both ordinances would be brought back to the Council at their December meeting for approval, with the goal of having regulations in place before the moratorium expires. City Planner Rybak had a conflict and had been unable to attend tonight's meeting, so she had sent a memo with some of the considerations that she wanted the Council to think about. Thames explained that for retail businesses, the City's authority is to limit it to one per 12,500 residents so, in theory, the City would limit retail establishments to no more than one cannabis business. He added that if the County were to reach a threshold of one business per 12,500 County residents prior to Long Lake receiving an application, the City would not have an obligation to allow one locally, and the ordinance language includes provisions addressing that. He expanded upon the importance of having the references to the business regulations within the zoning ordinance language as well as the performance standards, which was something that he and City Planner Rybak have been working on together. He asked the Council if they had a desire to hold a second public hearing on the topic and noted that other cities have had the business regulations available when the Planning Commission held their public hearing on the zoning issues. The idea is that the public could then comment on any or all of the cannabis regulations, but additionally, the Council could also hold a second public hearing if desired.

Council member Kvale noted that there was some inconsistency because the application fee was sometimes referred to as a registration fee in the document and referred to examples on pages three and four.

Thames stated that the terminology was a bit different because there was licensing at the state level; however, the City is not permitted to charge an application fee, but could charge a registration fee. He stated his draft language had followed the OCM model, they have used some things interchangeably, and indicated there was another item he would bring up later along those same lines. He stated that while the state, in theory, as the licensing agency, would handle regulation; the City would be the enforcement agency, even though the state was doing the licensing. The City would register and enforce businesses, but would not license them. He explained that the state's mandate upon the City would be to send the Wayzata Police Department out to any of the entities that have a retail operation in any form and have them to do an ID check once a year. He noted that the County has, at times,

offered services in the form of delegation to their authority, so the City could offer the registration and enforcement authority to them and they would handle it. He cautioned that if the City delegates this authority, he was concerned about the wording and if it meant that the City would cease to be one of the authorities that can limit the number of businesses allowed in the City, potentially resulting in being at the mercy of the whatever the County would allow. He reflected that the way he had prepared the draft document assured that the City would retain its authority as a registering entity.

Council member Kvale noted that one of the things that concerned here in the language was related to the statement, 'shall prohibit an active cannabis business or cannabis business seeking registration from continuing operation should something come in', if a school or something moved into a buffer zone. She stated that she felt that this was something that the Council should discuss.

Thames responded that the language Council member Kvale referred to was a mandate of the law and the City was not able to do anything with that language. It basically says that if the business is there first and then a school moves in next door, the business would be grandfathered in and the City could not make them move, but the next business that may come in would be analyzed based on its distance from the school. He explained that he had expanded on that and had added a provision that said that if the business tried to relocate, they would be subject to the new registration protocol.

Council member Feldmann asked if the buffer regions were for the distribution of products or something like a brewery.

Thames replied that the statute related to buffers says that the City can buffer from cannabis businesses, which is a defined term, and includes all of the licenses. He explained that the way he had written the ordinance was for the buffering to follow the registration, which means it would follow retail.

Weske asked if other cities had also included public buildings as a buffer zone, for example, having to be at least 500 feet from City Hall.

Thames was unaware of any other cities that were adding that kind of language. One city did consider adding churches, but had decided not to include them. He recommended that the Council consider using performance standards within the zoning ordinance such as hours of operation, odor control, noise control, access, and security cameras, rather than having some type of CUP protocol.

Council member Feldmann referenced the map that City Planner Rybak had included and noted that it looks like this was the set of all parks and educational institutions within the City with a buffer around them. He asked about a park or daycare that would border Long Lake and whether it should also be included.

Thames stated that he felt it should be included and did not necessarily have to be located within the City limits.

The Council discussed the locations of daycares and educational institutions in the area.

Mayor Miner asked about the County and licensing and what the timeline would be for those licenses hitting their maximum amount.

Thames stated that all of the moratoriums will come off on the first of the year, so that was when the licensing would start rolling out. He noted that there was an early registration period with a lottery, so there are businesses that are positioned to start pretty early in the process. He did not anticipate that the County would hit the threshold any time soon, but the County has indicated that they would create a GIS map so the overall numbers should eventually be fairly easy to determine. He referenced cannabis events and noted that he found it a bit confusing because it went against his expectations. He stated that many cities regulate local sampling at tobacco shops, for example, you can buy the product, but you cannot use it onsite. The City would not have the ability to block a retail operation from doing that because under their licensure they are permitted; however, there is a separate license for cannabis events and the City can decide their location, hours, and other performance standards, including not allowing consumption at events. He highlighted that another change he had made is that the language in a number of locations within the model ordinance referred to 'registrations' which are tied to licenses, and licenses can allow up to five locations. He did not want anybody to broadly interpret that, so he made a revision to the language that when they say registration, they mean one retail location operation only. He stated that he would also recommend they amend the hours of operation 10:00 am to 9:00 pm for every day and all events because it would also make things easier for enforcement purposes. With regard to the lower potency hemp edibles, he suggested that the City just allow five as their cap. City Planner Rybak had also recommended making an accessory use in the B-3 zoning district because there was no retail allowed there.

Council member Kvale asked if the City would address where the cannabis events could take place through the zoning.

Thames stated that as of right now the City has drawn a distinction between retail and non-retail. City Planner Rybak's opinion on that was that they really belong in the two industrial districts, but the City could limit it further if they only wanted to see events at certain places within town. He reviewed some of the other items included in City Planner Rybak's memo for the Council to consider.

Council member Feldmann asked about Subsection 26 in City Planner Rybak's information which says that they must implement comprehensive security measures. He asked if there were similar restrictions for businesses such as cultivation or distribution.

Thames stated that cannabis business encompasses all the businesses for everything that will be licensed, whether it was retail or not. He noted that the City would have the authority to apply the buffers to all businesses, but noted that in his proposed language, he had only applied it to the retail operations because the City only registers retail.

Council member Kvale asked about the zoning information City Planner Rybak had included in her memo.

Thames explained that he felt that City Planner Rybak was asking the Council for direction on where they would like to see the higher potency businesses located.

The Council discussed moving forward with the public hearing on cannabis businesses at the Planning Commission meeting.

Mayor Miner asked the Council if they had any additional direction to pass along to staff regarding the draft ordinance or changes that they would like to see from what has already been prepared.

Council member Feldmann commented that he would just like to see the City be able to restrict this as much as they can.

Thames asked how the Council felt about the application of buffers to registered retail businesses rather than all cannabis businesses.

Council member Dyvik stated that he would like the buffer language to be the most restrictive and have it applied to all businesses.

Council member Feldmann reiterated that he would like to see this be as restrictive as possible.

Council member Kvale asked if the City needed to allow the temporary cannabis events.

Thames confirmed that the City would have to allow temporary cannabis events, but they could be subject to performance standards and buffers.

Weske observed that he did not think the City would end up having too many locations where they could be located.

Mayor Miner questioned whether staff had any recommendations for the Council on the temporary cannabis events and where they should be located.

Thames suggested that the City could allow them only in areas where retail is allowed and also be subject to the buffers.

Mayor Miner asked that staff make sure that City Planner Rybak also includes any Orono properties near the City border.

Thames reviewed the feedback that he felt the Council had given to staff and outlined the next steps in the process.

Updates Regarding Fire Department Matters

Mayor Miner reported that the major news since the Council had met last was the outcome of the election resulting in a major shift within the Orono City Council membership. He commented that he was very appreciative to the Orono voters for choosing the candidates they did, because they had run on a platform of working with their neighbors as well as trying to figure out the Fire Department situation. He shared that the newly elected individuals have already been in contact with Long Lake and have expressed interest in working on the situation. He indicated that the current litigation is scheduled to go to trial in March of 2025, but there has been some discussion among the legal teams about the possibility of whether there may be able to be some out-of-court settlement discussions when the newly elected Orono Mayor and Council step into their offices.

OTHER BUSINESS

OHS Varsity Football Update - Council member Dyvik shared that the Orono High School varsity football team would be playing in the state tournament semi-finals for AAAA on Friday and noted that his son was on the team.

Upcoming Meetings - Mayor Miner recalled that the next Council meeting will be on November 26, and there will also most likely be a Closed Session meeting on that date with the City's legal team regarding the court case with Orono. Additionally, the Planning Commission will be meeting on November 19.

Holidays – Mayor Miner reminded residents that all City offices would be closed for the Thanksgiving holiday on November 28 and 29. He added that he had attended a Veterans Day service at Orono High School which was always a great event.

OHS Swim and Dive Team Update - Council member Dyvik congratulated the Orono High School girls swim and dive team as some of them will also be going to the state competition this weekend. He added that his daughter was on that team.

ADJOURN

Hearing no objection, Mayor Miner adjourned the meeting by general consent at 8:02 pm.

Respectfully submitted,

Scott Weske
City Administrator