

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
September 26, 2011**

1. CALL TO ORDER

Mayor Al Lindquist called the regular meeting of the Osseo City Council to order at 7:00 p.m. on Monday, September 26, 2011.

2. ROLL CALL

Members present: Council members Allan Hartkopf, Duane Poppe, Mark Schulz, Rick Weber, and Mayor Al Lindquist.

Staff present: City Administrator Jeffrey Dahl, City Attorney Loren Magsam, and Fire Chief Mark Lynde.

Others present: Emily Anderson, Mawaye Appleton, Mark Nedorski, Derick Haug, Mike Wiley, Ron Barger, and Mark & Becky Weidenbach.

3. PLEDGE OF ALLEGIANCE

Lindquist led the Pledge of Allegiance.

4. APPROVAL OF AGENDA [Additions - Deletions]

Lindquist asked for additions or deletions to the Agenda.

A motion was made by Hartkopf, seconded by Lindquist, to accept the Agenda as presented. The motion carried 5-0.

5. CONSENT AGENDA

Lindquist requested Item 5J be pulled for discussion as Item 7C under Special Business.

- A. Receive EDA Minutes of September 6
- B. Approve City Council Minutes of September 12
- C. Receive Planning Commission Minutes of September 19
- D. Receive August Fire Report
- E. Receive American Legion August Gambling Report
- F. Receive Fire Relief Association August Gambling Report
- G. Receive Osseo Lions Club August Gambling Report
- H. Receive Osseo Maple Grove Hockey Association August Gambling Report
- I. Confirm City Responses to Medical Calls
- J. ~~Rescind 2010-2011 Rental Licenses to Osseo Manor~~

A motion was made by Lindquist, seconded by Hartkopf, to remove Item 5J from the Consent Agenda for discussion under Special Business, Item 7C. The motion carried 5-0.

A motion was made by Hartkopf, seconded by Weber, to approve the Consent Agenda as amended. The motion carried 5-0.

6. MATTERS FROM THE FLOOR

Fire Chief Mark Lynde presented three certificates of appreciation to members of the Police and Fire Department based on their service at Lions Roar. The Council offered these people a round of applause for their dedication to the community.

7. SPECIAL BUSINESS

A. TOBACCO FREE YOUTH RECREATION PRESENTATION

City Administrator Dahl stated in May the Council received a request from the Association for Nonsmokers-Minnesota and a group of students acting for Hennepin County Tobacco-Free Youth Recreation about Tobacco-Free Policies for Parks and Recreation areas. These students presented a policy maker's guide to the City Council.

Dahl noted the Council voted to incorporate such a policy and staff was directed to prepare a Tobacco-Free Policy for Osseo Parks and Recreational Facilities. Signs have been posted at Boerboom Veterans Memorial Park and Sipe Park, indicating the parks are Tobacco-Free.

Dahl indicated Emily Anderson, Program Coordinator with Hennepin County Tobacco-Free Youth, was present to express her gratitude to the City.

Mawaye Appleton, resident of Osseo, thanked the City Council for approving the Tobacco-Free Policy for its parks and recreational spaces.

Lindquist questioned if the skating rink, located on school grounds, could be posted Tobacco-Free. Emily Anderson, Hennepin County Tobacco-Free Youth, explained this area could have signs posted at no expense to the Osseo School District. She noted she would work with the school district to assure that the skating rink was properly signed.

B. ANNOUNCEMENT OF ANNUAL LIONS HALLOWEEN PARADE

Dahl indicated the Osseo Lions Club was requesting City approval of the annual Osseo Halloween Kiddie Parade on October 29 at noon. This year's parade will follow the sidewalks of Central Avenue rather than the street.

Mark Weidenbach, Osseo Lions member, explained that Central Avenue would not be closed this year. Instead, the children would walk along the sidewalks and each business would be handing out treats. He did not feel the City Police or Fire Department would be impacted with the new plan.

Lindquist thanked the Lions and Mr. Weidenbach for his dedication to this event. He explained it had become a very special event for the children of this community and the area.

Weber also thanked Mark and Becky Weidenbach for their assistance with the Lions Roar parade.

C. RESCIND 2010-2011 RENTAL LICENSES TO OSSEO MANOR

City Attorney Loren Magsam reviewed with the Council several exhibits regarding the 2010-2011 rental licenses with the Osseo Manor. He explained residential rental properties had to be licensed in the City of Osseo. Periodically, rental properties are subject to inspection by the City, and must renew their rental licenses on a yearly basis.

City Attorney Magsam indicated the properties at 217 4th Avenue SE, 225 4th Avenue SE, and 216 3rd Avenue SE were under the ownership of one managing company. These properties were licensed in 2010 and expired at the end of June 2011.

City Attorney Magsam explained several code violation items regarding these properties were to be remediated before rental licenses could be issued for these properties in 2011-2012. He reviewed the requirements within City Code noting Osseo Manor LLC and its owner Mark Nedorski had neglected to comply with the City's rental license requirements.

City Attorney Magsam indicated inspections were completed by the City of Brooklyn Park in December of 2010 and no action was taken by Mr. Nedorski to correct the non-complying items at the above mentioned properties. By the City's error, rental licenses were issued to the three properties this summer, before gaining compliance on the outstanding issues.

City Attorney Magsam stated Mr. Nedorski was informed he would have to come into compliance in a letter dated July 13th, 2011, and, to date, none of the work orders have been completed. An additional letter was sent September 14 advising the property owner that the rental licenses would be discussed at this evening's meeting. The owner was requested to bring the properties into compliance by 4:00 p.m., September 26, 2011. To City staff knowledge, the properties remain in non-compliance. For this reason, City staff recommended that the rental licenses be rescinded, unless the deficiencies have been remedied and brought into compliance with City Code.

Mark Nedorski, Osseo Manor LLC, noted this building was a clean, well managed apartment complex. He indicated he was present to further explain his frustration with the inspection process. Mr. Nedorski stated 75 violations were found in 1/3 of the units. He did not feel it was necessary to have several fire detectors within each 700 square foot apartment. He said the over-regulating by the City was becoming a concern.

Mr. Nedorski claimed 74 of the 75 items on the violation form have been corrected. He explained that the last remaining item was quite costly and would not benefit the property. He requested a variance on the last item and indicated he had a heating contractor present to provide further information to the Council.

Dick Gruber, heating contractor, noted the inspector has recommended an RPZ be added to the boiler, which was a back flow preventer. This piece of equipment would keep water from back flowing to the residents from the boiler. He indicated the RPZ could be swapped out for a 9D back flower. The 9D would provide the same service to the boiler but at a much lower expense.

Mr. Gruber explained the RPZ was made for industrial sized properties and did not suit this apartment complex. The RPZ also had to be tested annually, and would not last more than five years. The increased expense for this piece of equipment was high for the property owner. He recommended the 9D back flower for the apartment complex boiler.

Mr. Nedorski felt the RPZ was an unnecessary repair and the over-regulation from the City and State was becoming a burden to rental properties in the community. He stated he was running a very clean, well-managed rental property in the City of Osseo and requested the Council be reasonable and allow him to use the 9D back flow on the boiler.

Lindquist questioned who set the standard for the piece of equipment. Mr. Gruber stated State Code required the RPZ for new construction. However, State Code does not require that existing buildings be retrofitted.

Lindquist asked if Osseo had the authority to surpass State regulations. Dahl indicated that the City did not have that authority.

Lindquist inquired if the City had the authority to allow the smaller back flow preventer. Dahl did not feel the City had the proper authority to take this action. He reiterated that the action before the Council this evening was regarding the rescinding of the rental license renewed by error. He stated the owner could appeal the compliance issue through the courts.

Weber felt this issue would have to be taken up with the City of Brooklyn Park and the State of Minnesota.

Mr. Nedorski encouraged the Council to come together and make a recommendation for a variance on the boiler back flow preventer. He stated this was a tough economy and the RPZ was not necessary.

Mr. Nedorski claimed that 74 of the 75 requested items have been completed. He questioned what process should be followed to evict the tenants in his building. He asked how much time he would have to vacate the building. City Attorney Magsam stated the City was not requiring Mr. Nedorski to send out eviction letters. He recommended a re-inspection of the property be completed first. The property owner could then work with the inspector regarding the back flow preventer.

Schulz asked why the property had not been re-inspected. Mr. Nedorski indicated he was not notified that a re-inspection was mandatory. City Attorney Magsam stated both letters dated July 13 letter and September 14 indicated a re-inspection was necessary.

Mr. Nedorski noted he was never contacted by the City of Brooklyn Park for a re-inspection. City Attorney Magsam explained this was the responsibility of the applicant and not the inspector to arrange for an appointment.

Mr. Nedorski commented that he thought the issues had been addressed when his license was sent to him. He then received another letter from the City stating the license was issued in error and that he needed to speak further with the City Council.

Schulz requested Staff read the letter dated July 13 and September 14 for the record to review the actions required by Mr. Nedorski to bring his rental license into compliance. City Attorney Magsam read the letters aloud.

Hartkopf questioned if action on this item could be tabled to allow the applicant time to re-inspect the property. Dahl stated the Building Official has determined this item needs to be resolved immediately. He indicated Mr. Nedorski has received letters of compliance from the City of Osseo, along with Brooklyn Park. The applicant has failed

to follow through and bring the property into compliance. He stated the fact remains that the rental licenses were sent out in error.

Hartkopf asked who sent out the rental licenses erroneously. Dahl noted he mailed these out in error.

Weber questioned when the City began doing rental inspections. Dahl explained the City began doing inspections for rental licenses in 2010. This was a new initiative to assure that properties were being properly maintained throughout the City. He stated all rental properties in the City were recently inspected and had to be brought into compliance.

Weber commented that State standards had to be followed for all rental properties in the City. He did not feel the Council was at liberty to approve a variance.

Lindquist agreed the City did not have this authority.

A motion was made by Schulz, seconded by Poppe, to determine the property owner, Mark Nedorski, has not brought the properties at 217 4th Avenue SE, 225 4th Avenue SE, and 216 3rd Avenue SE into compliance. The motion carried 5-0.

A motion was made by Schulz, seconded by Hartkopf, to rescind the 2010-2011 Renewal Rental Licenses for Osseo Manor as the license was sent erroneously and the property has not been brought into proper compliance. The motion carried 5-0.

8. PUBLIC HEARINGS – None.

9. OLD BUSINESS

A. CONSIDER DECLARATION OF SURPLUS PROPERTY AND SALE OF OUTLOT 1, MASTLEY'S ADDITION

Dahl stated staff has communicated by phone with Ms. Sobraske and confirmed that she does have significant interest in obtaining the rights to Outlot 1. He has indicated that the Council requested her interest in writing. However, as of September 22, Dahl has yet to receive anything in writing. Ms. Sobraske has indicated that she was ill at the time of her last communication. Staff recommends that the Council declare Outlot 1, Mastley's Addition, as surplus property and draft a Purchase Agreement with Christine Sobraske to purchase the entire outlot and combine the two properties.

Hartkopf asked if the item should be tabled until Ms. Sobraske was able to send in her letter of interest. Dahl indicated the Council could delay action this evening.

Weber recommended a time limit be set for Ms. Sobraske to assure that the sale is completed.

Schulz felt the time allowed thus far has been adequate and if the property was important to Ms. Sobraske, she has had ample time to send the City a letter of intent. Dahl noted staff could send a certified letter to Ms. Sobraske stating the City needed a letter of intent from Ms. Sobraske by a date specified. He explained his recommendation would be to sell the outlot to Ms. Sobraske after receiving this letter of intent, as her home is on a portion of the outlot.

A motion was made by Weber, seconded by Hartkopf, to approve the Declaration of Surplus Property and Sale of Outlot 1, Mastley's Addition, as recommended by staff pending the receipt of a Letter of Intent from Christine Sobraske.

Schulz expressed concern with the sale of this outlot. He stated a portion of Ms. Sobraske's home sat on the outlot as the property owners to the north were interested in the outlot originally. He felt the outlot should be split in half.

Lindquist agreed this was a concern and felt the fair solution would be to split the outlot in half.

The motion failed 2 ayes (Pope & Weber) -3 nays (Hartkopf, Schulz & Lindquist).

A motion was made by Schulz, seconded by Lindquist, to communicate via certified mail with Christine Sobraske and the Spinler family regarding the splitting of the property in half, and direct staff to negotiate a Purchase Agreement with both adjacent property owners.

Weber asked how far the Sobraske home encroached onto the outlot. He stated a variance would be needed and would have to be approved by Council. Dahl indicated this was premature and stated he would need to review the ramifications of this motion.

Schulz withdrew his motion. Lindquist accepted the rescinded motion.

A motion was made by Schulz, seconded by Weber, to table action on this item to October 24 to allow staff additional time to speak with the two property owners on this matter. The motion carried 5-0.

10. NEW BUSINESS

A. CONSIDER PLANNED UNIT DEVELOPMENT REQUEST AT 17 SIXTH STREET NE FROM WILEY ENTERPRISES (Resolution)

Lindquist stated he was recusing himself from this item.

Dahl indicated Bruce Wiley of Wiley Enterprises has submitted a Planned Unit Development (PUD) Preliminary Plat for the property at 17 6th Street NE. The applicant is requesting to combine two .25 acre lots to build a multi-unit garage with additional parking surface and landscaping. The proposed garage would provide added sheltered parking for the development.

Dahl reviewed the variances allowed through the PUD with the Council in detail. He explained the Planning Commission unanimously recommended approval of the request with conditions after holding a Public Hearing on September 19. Staff recommends approval of the PUD Preliminary Plat for Wiley Enterprises with the 12 conditions for approval, as the request would combine two lots and provide much needed off-street parking.

Schulz questioned the number of units in this complex and questioned if the 14 stall garage was necessary. Dahl stated there were eight units in the complex. He explained the property owner did have an additional rental property across the street with off-street parking available. The proposed garage could be used for this property as well.

Weber questioned where the garbage was currently located on this site. Mike Wiley, Wiley Enterprises, reviewed the location of the garbage receptacles with the Council. He stated there was no enclosure at this time. This would be brought into compliance through the proposed site plan.

Weber asked about the purpose of the rain garden area. Mr. Wiley stated this area would hold excess storm water from the parking lot. This would allow a great deal of water to stay out of the storm sewer.

A motion was made by Hartkopf, seconded by Poppe, to adopt Resolution No. 2011-55, approving the Planned Unit Development Preliminary and Final Plat request from Wiley Enterprises at 17 6th Street NE subject to the following conditions of approval:

- 1.) A more detailed landscaping plan shall be submitted and approved by Staff that complies with Section 153.057 of the City Code;**
- 2.) Any outstanding environmental issues shall be undertaken and addressed in accordance to County, State and Federal regulations prior to issuance of building permit;**
- 3.) All areas of the site, where practical, shall be sodded and maintained;**
- 4.) The developer shall obtain all necessary building permits and pay all fees and deposits related to the proposed development;**
- 5.) The applicant shall install a fire lock box with approval of Fire Chief;**
- 6.) If trash is stored outside, a trash enclosure shall be constructed with prior approval by City staff;**
- 7.) The developer shall satisfy all comments and concerns from the City Engineer's September 9, 2011, memo;**
- 8.) If modifications to the site plan result in significant alteration, the developer shall apply for an amended PUD Preliminary Plat/Final Plat through a public hearing;**
- 9.) The applicant has not submitted any exterior elements of the garage. Regardless, the applicant shall adhere to Section 142.042 of the City Code pertaining to building materials;**
- 10.) The rain garden area on City right-of-way shall be maintained at all times by the applicant;**
- 11.) The applicant shall install a hedge or fence along the surface parking area abutting First Avenue NE; and,**
- 12.) The Final Plat with all required legal descriptions shall be submitted to Hennepin County by the applicant and all recording costs shall be paid by the applicant.**

The motion carried 4-0, with 1 abstention (Lindquist).

B. APPROVE ACCOUNTS PAYABLE

Dahl reviewed an amended Accounts Payable with the Council.

A motion was made by Schulz, seconded by Hartkopf, to approve the amended Accounts Payable as presented. The motion carried 5-0.

11. ADMINISTRATOR-CLERK-TREASURER'S REPORT

Dahl noted the Council would be holding a budget work session before the Council meeting on October 10 at 5:00 p.m. User based fees would be discussed in detail along with potential shared services.

Dahl indicated he had the privilege of attending the International City Managers Conference in Milwaukee, Wisconsin, last week. He learned a great deal about effective management and shared services. He spoke with area local administrators about holding a joint work session to discuss potential collaborations to reduce City expenses.

Dahl explained he received a letter from Tony Mortinson regarding the 2011 Toys for Tots program. The goal of the program would be to deliver a new toy to less fortunate children.

12. COUNCIL AND ATTORNEY REPORTS

Lindquist congratulated Channel 12 for recently receiving two Emmy awards, one for the prep-sport coverage and one for their coverage at the Whiz Bang Days.

Weber thanked Dan Spanier and his sister Connie for cleaning up the Osseo Commons grounds.

Hartkopf reminded the public of Oktoberfest being held on October 1, at 3rd Street and 1st Avenue NE, from 12-6:00 p.m. He reviewed the events planned for the day and encouraged all to attend. The event was sponsored by the OBA, the Masonic Lodge, Chamber of Commerce, and the Lions Club.

Lindquist noted the Osseo Community Breakfast was held last Thursday with approximately 135 people in attendance. He stated it was a nicely planned event. He explained shared services were discussed at the breakfast and a number of opinions were voiced. He thanked all for sharing their concerns.

13. ADJOURNMENT

A motion was made by Weber, seconded by Poppe, to adjourn the City Council meeting at 8:40 p.m. The motion carried 5-0.

Respectfully submitted,

TimeSaver Off Site Secretarial Service, Inc.