

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
August 12, 2019**

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:00 p.m. on Monday, August 12, 2019.

2. ROLL CALL

Members present: Councilmembers Juliana Hultstrom, Harold E. Johnson, Larry Stelmach, and Mayor Duane Poppe.

Members absent: Councilmember Mark Schulz.

Staff present: City Administrator Riley Grams, City Planner Nancy Abts, Police Chief Shane Mikkelson, Officer Todd Kintzi, and City Attorney Mary Tietjen.

Others present: Sarah Lindsay, Ken Peloquin, Ed Columbus, James Kelly, Molly Just, Jim Yarosh, and Zach Lawrence.

3. PLEDGE OF ALLEGIANCE

Poppe led the Pledge of Allegiance.

4. APPROVAL OF AGENDA [Additions - Deletions]

Poppe asked for additions or deletions to the Agenda.

A motion was made by Stelmach, seconded by Hultstrom, to accept the Agenda as presented. The motion carried 4-0.

5. CONSENT AGENDA

- A. Approve Council Minutes of July 22
- B. Approve Council Work Session Minutes of July 22
- C. Approve Fee Waiver Request for Library Program in November
- D. Receive June Fire Relief Association Gambling Report
- E. Approve Fee Waiver Request for Library Program in February 2020
- F. Approve Temporary Liquor License for Lions Roar Event in September
- G. Accept Resignation of Planning Commission Member Michael Corbett
- H. Approve Training Request for City Planner
- I. Accept Resignation of Part-Time Officer David J. Johnson
- J. Receive July Building Report
- K. Approve ICMA Annual Conference for City Administrator Riley Grams

A motion was made by Johnson, seconded by Stelmach, to approve the Consent Agenda. The motion carried 4-0.

6. MATTERS FROM THE FLOOR

James Kelly, 624 3rd Avenue NE, showed the Council the American Sign Language symbol for freedom of speech. He reported City Code does not define “adequate” with respect to utility access and drainage services. He believed it was impossible for a resident to receive a conditional use permit given this ambiguity.

7. SPECIAL BUSINESS

A. NATIONAL LEAGUE OF CITIES PRESENTATION – Sarah Lindsay

Sarah Lindsay, National League of Cities (NLC), introduced herself to the Council and explained the NLC was the voice of America’s cities, towns, and villages representing more than 200 million people across the country. She indicated the mission of her organization was to strengthen local leadership, influence federal policy, and drive innovative solutions. She reported she met Councilmember Hultstrom at a recent League of Minnesota Cities conference. She provided further comment on the benefits of being a member of NLC which included advocacy efforts on Capitol Hill. She explained her organization was working closely with the Census Bureau in order to address questions cities may have. She noted the NLC held a City Summit Annual Conference each year in November. She encouraged the Osseo City Councilmembers to consider attending.

Johnson requested further information regarding the prescription discount program administered by CVS Caremark. Ms. Lindsay discussed the benefits of this program in further detail with the Council.

B. ADOPT 2040 COMPREHENSIVE PLAN UPDATE

City Planner Nancy Abts stated Metropolitan Council staff reviewed the Comprehensive Plan Update that was submitted in 2018. Following two rounds of correspondence between Met Council staff and Osseo’s Planning Consultants with WSB, the plan was found complete for review. She reported staff has been working on this document for the past three years. She commented further on the 2040 Comprehensive Plan and recommended approval.

Johnson asked if all of the work had to be done prior to approving the Comprehensive Plan. Abts explained staff had four components to the approval of the Comprehensive Plan and only Item 1 was being recommended for action at this time.

Stelmach thanked staff, Commission members, and the Council for all of their efforts on this document. He reiterated the fact that the Comprehensive Plan was a guiding document for the City.

A motion was made by Hultstrom, seconded by Johnson, to adopt Resolution 2019-32, approving the 2040 Comprehensive Plan Update. The motion carried 4-0.

C. APPROVE PROPOSAL FOR ZONING CODE UPDATES FROM WSB & ASSOCIATES

Abts stated under Minnesota State Statute a city's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). The Metropolitan Council requires that official controls such as zoning, "must not be in conflict" with the Comprehensive Plan or its subsequent updates. As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan.

Abts explained much of the Osseo Zoning Ordinance was adopted in 1994. The ordinance has been added to and some sections (e.g., the sign code) have been updated since then, but much of the ordinance has not been updated in 25 years. Some clerical updates are needed in addition to some more substantive items.

Abts reported in addition to the updates identified in the Comprehensive Plan, staff is proposing updating City Code to allow Interim Uses. Interim Uses are somewhat similar to Conditional Uses, but are allowed to terminate at a certain date or if other conditions change. Unlike Conditional Permits, there does not necessarily need to be a permit violation or a discontinued use in order for an Interim Use to be removed from a property. She reviewed the preliminary timeline for the proposed Zoning Code updates and estimated costs from WSB.

A motion was made by Hultstrom, seconded by Johnson, to approve the \$4,400 proposal from WSB & Associates for near-term updates of the City's Zoning Code. The motion carried 4-0.

D. APPROVE LIONS ROAR FESTIVAL – Osseo Lions Club

Ed Columbus requested the Council approve the Lions Roar Festival which would be held on Friday and Saturday, September 6-7. He stated Lions Roar was a great family event that has been going on for the past 42 years. He reviewed the attractions that were planned for this year's Lions Roar noting the location for each event.

Stelmach stated he appreciated the fact a sandbox had been added for Osseo's littlest residents.

Hultstrom indicated she appreciated the fact the Lions would be providing free eye testing for children. Columbus explained this was a good tool for both children and parents.

City Administrator Riley Grams stated the City looked forward to working with the Lions each year on this event. He reported the Lions had requested a fee waiver for Lions Roar event and associated permits.

Johnson thanked the Lions for all of their work in the community.

A motion was made by Hultstrom, seconded by Johnson, to approve the special event permit for the Lions Roar Festival and approve the associated fee waivers. The motion carried 4-0.

E. APPROVE 5K RACE EVENT – Osseo Cross Country

Grams asked the Council to approve a 5K Race event being requested by the Osseo High School Cross Country Team. He noted this race would be run in conjunction with the Osseo Lions Roar and would serve as a fundraiser for the cross country team. He noted the event had 320 participants ages 5 to 75. He reviewed the race route and recommended approval of the 5K event.

A motion was made by Johnson, seconded by Stelmach, to approve the special event permit for the 5K Race and fee waiver. The motion carried 4-0.

F. APPROVE DUFFY’S ROAR EVENT

Grams requested the Council approve Duffy’s Lions Roar event. He noted Duffy’s event would be held on Friday and Saturday, September 6-7 in conjunction with Osseo Lions Roar.

A motion was made by Johnson, seconded by Hultstrom, to approve the special event permit for Duffy’s Roar Event. The motion carried 4-0.

G. ACCEPT DONATIONS (Resolution)

Grams stated the City has received the following donations:

Donor	Amount/Item	Designated Fund
Metro West Inspections	\$ 250	Beautification/Streetscape
WSB	\$ 250	Beautification/Streetscape
Paul Baertschi, P.A.	\$ 50	Beautification/Streetscape
Harold E. & Gayle Johnson	\$1,000	Beautification/Streetscape
<i>(in memory of Vivian Adams, Faye Barta, Charles Gustafson, David Hauck, Katherine Jones, Victor Mastley, James Olson, Donald Poss, Roger Schmidt, & Ernest Trombley)</i>		

Staff recommended the Council accept the donations.

A motion was made by Stelmach, seconded by Hultstrom, to adopt Resolution No. 2019-44 accepting donations from Metro West Inspections, WSB, Paul Baertschi, and Harold E. & Gayle Johnson. The motion carried 4-0.

8. PUBLIC HEARINGS

A. REVIEW CONDITIONAL USE PERMITS – 101 Central Avenue (2014-63), 111 1st Street SE (2000-36), 235 County Road 81 (2008-32), 504 3rd Street SE (2012-85), and 616 Central Avenue (1997-32)

Abts stated City Code provides two avenues for revoking conditional use permits (CUPs): those that are expired, and those that have been violated. For revoking expired CUPs City Code currently requires annual review. In the past two years of CUP reviews, a few properties (101 Central Avenue, 111 1st Street SE, 235 County Road 81, and 504 3rd Street SE) had no apparent activity relating to the CUP on file. Per City Code, “A conditional use permit...shall expire if that use shall cease for more than 12 consecutive months.” Staff contacted property owners for parcels with expired CUPs and discussed

the administrative procedure of revoking an expired CUP. No property owners expressed concerns. Following a public hearing, the Council is able to revoke the expired CUPs.

Abts described what actions must be taken when revoking CUPs due to violations. When a property is found to be out of compliance with the conditions of its CUP, a CUP may be revoked. However, staff typically works with the property and/or business owner to resolve the violations. In recent years, the conditions in the CUP for used car sales at 616 Central Avenue have been a topic of contention between City staff and the owner of JML Motors.

Abts reviewed the staff interactions regarding the CUP for 616 Central Avenue. A timeline of interactions between staff and the business owner following the December 2018 City Council meeting was reviewed with the Council. Violations of CUP #1997-32 have primarily involved Condition 13: No more than 22 vehicles be displayed for sale at any given time. She commented staff interprets Condition 13 to mean that there may be no more than 22 vehicles displayed on the rear sales lot at any time (excluding, for example, vehicles used by employees to travel to/from the property, or vehicles owned by prospective customers and parked in the driveway). This is consistent with the Minnesota Department of Public Safety Driver and Vehicle Services requirements that all vehicles in a dealer's inventory be flagged as "held for resale."

Abts indicated this interpretation is also supported by the site plan that accompanied the 1997 CUP amendment application. That site plan shows 19 angled and 3 parallel parking spaces ringing the rear lot for a total of 22 "for sale" spaces. The site plan also shows an additional two spaces labeled for "Renter" (previously, the dealership operated out of the "Office" at the rear of the property, while residential tenants occupied the white "house" structure) and 3 other spaces located near Central Avenue to facilitate customer or employee access.

Abts stated the current business at 616 Central Avenue has posted operating hours of 12 – 5 pm, Monday – Friday. Although the CUP does not impose operating hour restrictions on the property, it seems unlikely that 7+ employee and customer vehicles would be parked on site on weekend mornings and prior to 7:30 a.m. on weekdays.

Abts explained the City Council should hold a public hearing regarding the listed CUPs. Following the public hearing, the Council should direct staff to prepare any necessary revocation resolutions for the listed CUPs. Revocation resolutions will be brought to a future Council meeting for adoption. Conditional Use Permits may be revoked due to discontinuation, or they may be revoked based on factual evidence of substantial noncompliance with conditions.

Stelmach questioned how many property owners contested the CUP revocation and wished to have it renewed. Abts explained the only business owner that contested the CUP revocation was the business owner at 616 Central Avenue.

A motion was made by Stelmach, seconded by Hultstrom, to open the public hearing at 7:51 p.m. The motion carried 4-0.

Jim Yarosh, attorney for Zach Lawrence with JML Motor Sales, explained Mr. Lawrence was a contract vendee. He reported his client has an interest in this property. He stated his client would like to keep his business in Osseo in a way that meets City regulations. His client hoped steps did not need to be taken towards revocation, but rather that concerns could be addressed and resolved through communication between the City and Mr. Lawrence. He indicated there was an issue in his client's mind what the CUP says with respect to Condition 13 that no more than 22 vehicles can be displayed for sale at any given time.

Mr. Yarosh stated Mr. Lawrence was a small business owner and sometimes it was hard to control the ebb and flow of car sales. He noted Mr. Lawrence bought cars in bulk, brings them to the site, some were displayed for sale, some were sent to auction, some were shipped off to a mechanic for repair, and others were sold online. He commented as he understood it, the cars on this property were rotating regularly and were not being stockpiled. He reported his client was meeting all other conditions within the CUP.

Mr. Yarosh described the discussion that was held in December 2018 between the Council and Mr. Lawrence. From this meeting, his client was led to believe he could speak with staff to request an amendment to the CUP. He reported his client later learned staff was reluctant to consider recommending an expansion of the number of cars. He explained the main concern for his client was how the City was interpreting 22 vehicles for display. He asked if customers visiting the site were included in the 22 number. He requested clarification on how the City defined 22 vehicles for display. He was of the opinion the Council should not have proposed an expansion in December 2018. Mr. Yarosh explained his client understood during business hours only 22 cars should be on the lot. He reported his client was not thumbing his nose to the City with respect to this issue. He commented further on the inspections that were conducted by the City.

Mr. Yarosh reported his client maintains this property very well and no complaints have been received from the neighbors. In addition, he explained all screening has been well maintained. He explained his client has been working hard to grow his business in the City and would like to remain in Osseo. He requested the Council and staff provide his client with further clarification on what is meant by 22 cars. He asked that the Council further cooperate with his client and that the CUP not be revoked.

Stelmach stated another lot was discussed in December 2018 and he recalled specifically that the number 22 had been addressed because it was in the minutes. He explained the overflow problem had been discussed and Mr. Lawrence was going to leverage other property as a solution. He stated at that time he took this to mean Mr. Lawrence had a great desire to remain in Osseo. He indicated what he is hearing tonight was this had not occurred. He stated after reviewing the December 2018 minutes and reviewing the conversations that were held, it appeared to him that Mr. Lawrence's actions were at odds with the previous discussion. He explained the property was not in compliance, nor had Mr. Lawrence worked to bring the property into compliance. He felt that the Council had tried to work with Mr. Lawrence to reach a solution and now the matter was back before the Council.

Hultstrom commented she was in a different seat in December 2018 as she was not yet sworn in as a Councilmember. She indicated it was very clear to her that Mr. Lawrence understood the Council and that he would do everything to keep to the number 22. She explained he stated he understood. She expressed concern about an event that occurred on May 21, 2019. She stated on that date she and Councilmember Johnson were visiting the Benedictine housing development across the street and a car came out of Mr. Lawrence's property, took out the crosswalk sign, and sped off. She indicated this was unacceptable. She reported the Council was very clear in December and Mr. Lawrence agreed to the terms that were discussed then.

Johnson explained there seemed to be some confusion as to if cars were for sale or not for sale on Mr. Lawrence's lot. He indicated his grandfather was in the used car business for many years. He noted every car on his dad's lot, whether being driven by himself or another employee, was for sale. He reported this was the same case for Mr. Lawrence; every used vehicle on this lot was for sale. He did not think this issue should even be discussed. He explained the number of cars on this lot was being exceeded by Mr. Lawrence. He stated just because the business was not open, did not mean the number of cars could be more. He reported 22 was the maximum. He recalled the comments that were made at the December 2018 meeting noting a CUP amendment was discussed. However, no action was taken on Mr. Lawrence's part to amend the CUP. He questioned why Mr. Lawrence had not done his part to address this matter.

Stelmach explained there were small business owners on the City Council. He stated the Council was sensitive to small business owners and advocated to resolve the concern with Mr. Lawrence.

Mr. Yarosh commented this was an emotional issue for his client as he was invested in his business. He apologized for the situation that occurred on May 21. He hoped that the Council wouldn't hold this against Mr. Lawrence or his business. He stated this was the first time he had heard of this situation.

Mr. Lawrence indicated he was unaware of the situation that occurred on May 21. He stated he would have cleaned up the sign and tried to catch the driver if he had known this occurred. He reported the sign was not taken out by him or his father. He commented he would like to come up with a number and stated he would stick by this number. He explained he was willing to work with the City to bring his property into compliance. He discussed the fees the City was going to charge him to amend the CUP, which was \$2,500 noting he would also be forced to blacktop the site.

Mr. Lawrence expressed frustration with how he was treated by staff as it appeared to him a CUP amendment request for additional cars on the site would not be approved. He asserted that he was told by staff that he could park cars on the street during business hours and place them on the lot overnight in order to remain in compliance with City Code. He discussed the inspections that occurred on his property by the City which were unannounced. He reported it was only recently that he was made aware that his lot had to have only 22 cars at all times, not just during business hours. He described how he had since been moving cars on and off of the lot in order to remain in compliance.

Mr. Yarosh requested the Council work with his client in order to achieve compliance. He noted it had been eight months since the first violation occurred. He reported his client was not thumbing his nose to the City but rather was operating under assumptions made following a meeting with City staff. He recommended the language on Condition 13 be amended and further clarified in order to allow Mr. Lawrence to be in compliance and continue to operate in Osseo.

City Attorney Tietjen stated when the Council is done taking comments, she suggested the public hearing be closed for Council discussion.

James Kelly, 624 3rd Avenue NE, discussed the matters which were approved by the Council under Item 7C. He believed this was a last rite matter and the CUP should not be further considered by the Council.

Mr. Yarosh commented Mr. Lawrence had no violations from December 2018 through June 2019. He indicated a determination was made by staff on June 9, a public hearing was recommended, and the site was then visited frequently. He explained the last visit occurred on July 23 when 24 cars were viewed on the site, and 22 cars were for sale and the other two cars were the property of Mr. Lawrence and his father. He requested the Council work with Mr. Lawrence to provide better clarification in order to resolve the situation.

A motion was made by Johnson, seconded by Hultstrom, to close the public hearing at 8:25 p.m. The motion carried 4-0.

Johnson asked if it would cost \$2,500 to amend the CUP. Abts explained the Council approves fees every year as part of the Fee Schedule. She indicated a Conditional Use Permit Amendment costs \$250. She noted applicants were also required to submit drawings of the site and other supporting documents per ordinance.

Stelmach questioned if Mr. Lawrence submitted a CUP amendment per the Council's recommendation in December. Abts reported the City did not receive a CUP amendment for this property.

Johnson commented it was his understanding last December that the Council recommended a CUP amendment be submitted by Mr. Lawrence. He did not understand where there was a breakdown in this recommendation. He stated he was not aware of the fees, nor the drawings that were required per City Code. He believed the City had not done what could have been done in order to ensure messages were being clearly passed along. He explained Mr. Lawrence was moving the cars back and forth after being given direction from City staff that this was okay. He stated this matter should not have been dragged out this long.

City Attorney Tietjen advised in terms of the options the Council can revoke the CUP, or the Council could amend the conditions within the CUP to address ambiguity and provide further clarification. She provided further comment on how the Council could go about amending the conditions.

Stelmach asked if any other land use amendments had been approved without a drawing. Abts reported a drawing or survey of a property was relevant when it came to

approving a CUP or amendment. She noted there were times when an application has been accepted that was not complete. She explained it was her opinion in December 2018 that a site plan or survey would be pertinent for the 616 Central Avenue property in order to understand how the site would be impacted through the requested CUP amendment, which at the time included possible expansion of the number of cars on site. However, after better understanding the applicant may only be requesting clarification to the language of one condition within the CUP, a certified survey may not be necessary.

Stelmach stated he did not believe it was necessary to generate a separate contract or agreement between the City and a business to address a CUP. He explained in December 2018 Mr. Lawrence was made aware of the 22-car limit and the CUP was that agreement. He reported Mr. Lawrence was further made aware of the City's requirements in June 2019 to no avail. He understood Mr. Lawrence was passionate about his small business but he did not believe an additional contract was necessary. City Attorney Tietjen advised the CUP was like a contract that laid out the terms between the City and the business owner. She agreed there was no need for a separate contract. She explained a CUP could be amended by agreement of both parties.

Stelmach indicated he was not sure everything was followed through by Mr. Lawrence after the December 2018 meeting. He stated certain agreements were made based on the discussion at this meeting and it was his understanding Mr. Lawrence would be requesting a CUP amendment. He explained this was over eight months ago. He commented all parties were clear with the 22 number in December. He questioned why the agreement that was made at that meeting was not followed. He stated that would make it difficult for him to support maintaining the CUP because he did not want to be back here again in eight months with further non-compliance.

Mr. Lawrence expressed frustration with the fact that after he met with staff, he had the understanding a CUP amendment would not be approved by the City.

Stelmach clarified for the record that staff does not approve CUP amendments, the City Council was responsible for that action.

Mr. Yarosh requested he be allowed to further respond. He stated he believed there was a misunderstanding as to what occurred at the December meeting. He explained the literal meaning of Condition 13 as that no more than 22 cars may be displayed for sale. He indicated this language had some level of ambiguity. For this reason, the Council recommended Mr. Lawrence apply for a CUP amendment. He explained the additional requirements that went along with the CUP amendment were quite burdensome for a small business owner. He stated his client felt discouraged after meeting with city staff, who were candid that an expansion may not be approved. He discussed the hoops and costs that Mr. Lawrence would have to jump through in order to have a CUP amendment considered. He noted it had only been eight months but only since June since a violation had occurred regarding Condition 13. He explained his client wants to comply in order to remain in Osseo. He requested the number be fixed or that the language be clarified within the CUP.

Stelmach thanked Mr. Yarosh for his comments. He stated after the December meeting his understanding was the number would be 22 and the entire City Council agreed with

this number. He explained this number was to remain 22 until a time when Mr. Lawrence applied for a CUP amendment. He indicated he was a process person and was frustrated by the fact Mr. Lawrence had not followed the recommended process. He stated the code enforcement staff had investigated the property for violations and did their job properly. He stated the Council and Mr. Lawrence had agreed on 22 and no CUP amendment had been submitted. He questioned why no change had been made by Mr. Lawrence after eight months when 22 was the agreed upon number. He indicated it would be hard for him to support the CUP when no action was taken by Mr. Lawrence.

Mr. Lawrence addressed the Council and stated it was his belief that he could have over 22 cars on the lot after business hours.

Hultstrom stated Condition 13 states clearly that only 22 cars were allowed on the lot for sale at any given time.

Abts commented she did not recall telling Mr. Lawrence that it was during business hours only.

Stelmach questioned what process was followed by the City to generate a visit to a business to check for code violations without any prior letter of notification. Abts explained there was relatively minimal documentation to address these visits within City Code. She indicated City Code required CUPs to be reviewed annually to check for compliance. She reported she conducted business visits after sending a postcard to CUP holders. She stated typically she has been letting business owners know she would be visiting with Officer Kintzi.

Johnson stated he would like to see the Council move this item forward. He explained it would be difficult for a visiting officer to make a determination whether a vehicle was from a customer or for sale. He recommended the Council adjust the number to 30 vehicles on the site, and this would include for sale and not for sale vehicles at all times. He reported this would allow employees and customers to have a vehicle on the site along with the 22 for sale.

Hultstrom explained she did not believe a CUP amendment should be leveraged by the Council at this time. She recommended this be required to follow due diligence in proper fashion through a CUP amendment.

City Attorney Tietjen clarified for the record one way to amend a CUP was for an applicant to apply for a CUP amendment, and noted the Council could also suggest or amend the conditions of the CUP. She explained staff would like to have clear direction from the Council on this item with a specific deadline in order to ensure this item was addressed in a timely manner.

Grams agreed with this recommendation and stated he wanted to see that Mr. Lawrence was required to follow through on the Council recommendation. He explained he was not comfortable working with Mr. Lawrence at a staff level because he was uncertain what he was going to say and if he was going to follow through. He indicated if the Council was going to direct staff to work with Mr. Lawrence, he would like clear and concise direction with deadlines.

Stelmach stated his recollection from December was that all parties had a clear understanding. He commented further on the verbal agreements that were made in December that the number of cars for sale would not breach 22. He recalls Mr. Lawrence stating an interim lot would be used if the number of cars were to exceed 22 and that he would be submitting a CUP amendment. He indicated this was the plan and all parties agreed with this plan. He expressed concern with the fact Mr. Lawrence had not stuck to the agreement and was failing to recognize that fact. He stated this gave him lower confidence that Mr. Lawrence would be able to do this if offered a second chance. For this reason, he could not support the CUP or a CUP amendment.

Mr. Lawrence agreed with everything the Council was saying and asked that the Council just provide him with a number. He stated he would abide by the number. He commented he believed there was another CUP on Central Avenue that was allowed to have five cars on display. He explained that his belief was that if you drove by at any given time, there were more than five cars on this lot. He indicated he believed the City had an understanding with this CUP holder and they were allowed to have that many cars. He requested there be an agreement between him and the City by providing him with a number. He stated 30 would allow him to address all of the City's concerns. He reported he got a second lot for cars in order to allow for overflow parking.

Stelmach stated the difference from the last meeting was the Council and Mr. Lawrence mutually agreed on 22 and tonight Councilmember Johnson was suggesting 30 and Mr. Lawrence was agreeing with this. He feared this new number wouldn't be followed through with, as was done in December after the Council agreed with Mr. Lawrence to 22.

Grams commented Mr. Lawrence has said many times he just wants to know the number. He stated the CUP clearly states the number is 22. He explained if Mr. Lawrence wanted a different number this should have been requested through a CUP amendment. He explained in the eight months since December, Mr. Lawrence has not requested a change to the number.

Mr. Yarosh indicated there was confusion from the December meeting. He noted there was a reference in the minutes to 35 being the number.

Stelmach clarified the number does not rise above 22 as an agreed upon number at the end of the meeting. Mr. Yarosh explained it was recommended the owner apply for a CUP amendment to clarify conditions and to direct the property owner to work with staff on the appropriate language. He explained if only the number had to be addressed, then a certified survey would not be required.

Johnson stated he could understand why Mr. Lawrence had not completed a survey and other requirements. He explained his understanding that an amendment would be made to the CUP and the City would arrive at a number without having to go through this long drawn out process requiring Mr. Lawrence to upgrade his parking lot, etc. He reported a new CUP was not being requested, but rather a clarification on the number of vehicles was being requested. He supported the number being increased to 30.

Stelmach commented he has not seen anything that indicates the business owner was given specific requirements that would require him to spend \$30,000 in improvements in order to upgrade his parking lot. He stated he believed everyone wanted this to work in December and the number 22 was agreed upon.

Hultstrom indicated each Councilmember wanted to see Mr. Lawrence succeed. However, she noted the City also had to succeed. She reported the Council could not make exceptions based on personal feelings or things that were not properly channeled. She explained it was clear from the December meeting and in the minutes that 22 was the number. She stated Mr. Lawrence thanked the Council and said he would do everything to stay at 22. She indicated she did not see how Mr. Lawrence had complied with his end of the bargain. She stated it would be really hard for her to go forward and allow Mr. Lawrence to move forward with a CUP amendment.

Poppe stated after reviewing the conversation from the December 2018 meeting, he believes the Council was very clear with its intentions. He stated he was really struggling with how to proceed with this matter.

Mr. Yarosh stated there was still ambiguity with how Mr. Lawrence was to interpret "displayed" and the other messages that were made at the meeting. He questioned who has been harmed in the last eight months and encouraged the Council to consider the harm that would be caused if the CUP was revoked. He explained his client had a meeting with staff right after the December meeting and his client felt some confusion as to how he was to proceed. He requested the Council allow Mr. Lawrence to get on the same page as the Council in order to remedy the situation without causing undo harm to his client.

Stelmach indicated this was the same discussion that was held in December.

Poppe requested staff review the site plan for this property. Abts pulled up the site plan and reviewed the location of the 22 parking spaces that were available for the display and sale of vehicles. Police Chief Shane Mikkelson explained he has inspected this lot and has counted cars. He discussed the process that was followed by the Police Department for inspections noting some were random visits while others were driven by complaints. He reported one of his officers attended the visits with Ms. Abts in order to address other code violations that may have occurred. He stated the Police Department was very familiar with this business. He commented further on the location of the display vehicles noting Mr. Lawrence was not following the angled parking on the site plan; rather, Mr. Lawrence was parking the cars in rows. He stated Mr. Lawrence had claimed he had no employees and indicated his father was working with him. He noted the donut trailer, belonging to Mr. Lawrence's father, was a concern but had been excluded from vehicle counts. He noted that at the time of July inspections, cars were sometimes parked across the driveway entrance.

Poppe asked who was parking in the drive aisle. Mr. Lawrence reviewed information with the Council regarding how vehicles cars have been parked since July 23. He reported he has upped the number of vehicles on the storage lot from 30 to 50 and now all cars go to the storage lot and are disbursed from this lot. He explained he was making costly attempts to meet the City's requirements.

Poppe questioned if the City were to clarify that only 22 vehicles were allowed on the lot at any given time, if this was clear enough. He noted this number included the donut truck, trailers, or any vehicles being stored on the site behind the main building. He stated he did not want to be back here again in six months with Mr. Lawrence saying things were not clear enough. He indicated he was tired of dealing with this situation. Mr. Yarosh requested he be allowed to speak with his client and the City Attorney.

Stelmach explained this was the same statement that was made in December and Mr. Lawrence stated he would have a separate lot to manage the situation. Mr. Yarosh asked that he be allowed to speak with this client.

Mr. Yarosh conferred with his client and requested the number be set at 25 to allow for the donut truck. Mr. Lawrence stated the donut truck required a 220-volt cord which has been stolen before. He requested the donut truck be allowed to remain parked on this lot for security purposes.

Poppe stated if the donut truck remains on the lot it could be counted as one of the 22 vehicles. He explained if Mr. Lawrence was to have a violation on the number of vehicles parked on this lot, the Council would be revoking the CUP.

Stelmach indicated he completely respected this stance.

City Attorney Tietjen recommended the Council direct staff to craft the language for the condition that is consistent with Mayor Poppe's direction.

Stelmach commented he would not be able to support the recommendation given the fact Mr. Lawrence had not followed the City's process in the past. While he wanted Mr. Lawrence's business to thrive, he feared there would be no follow through with the City's requirements.

Hultstrom indicated she agreed with Councilmember Stelmach.

Johnson stated at the December 2018 meeting the donut truck was not included in the 22. He supported the donut truck being allowed on the site, plus 22 vehicles since this was the previous agreement.

Poppe explained his proposal was that the donut truck could be parked on the lot, but would be counted as one of the 22 vehicles.

Stelmach commented he did not want to see this business fail, but he stated he could not support a change to the condition for fear there would be no follow through.

Johnson indicated he would not be able to support only 22 vehicles in the lot.

A motion was made by Hultstrom, seconded by Stelmach, to revoke the Conditional Use Permit for the property at 616 Central Avenue.

Johnson stated he would prefer to clarify the condition language versus revoking the CUP. He explained he did not support the revocation of the CUP.

Stelmach reported based on the patterns of behavior he would be supporting the motion on the floor.

City Attorney Tietjen explained if the vote on the motion were to split the motion would fail.

The motion failed 2-2 (Johnson and Poppe opposed).

A motion was made by Stelmach, seconded by Hultstrom, to table action on the conditional use permit for the property at 616 Central Avenue to the August 26, 2019, City Council meeting. The motion failed 2-2 (Johnson and Poppe opposed).

A motion was made by Johnson, seconded by Poppe, to direct staff to revise the conditional use permit language allowing for no more than 25 vehicles at any given time (24/7), noting that a failure to meet this requirement would result in immediate Council consideration for revocation of the conditional use permit.

City Attorney Tietjen explained all revocations of Conditional Use Permits would have to be reviewed by the Council at the next scheduled Council meeting.

Stelmach asked if Mr. Lawrence understood the motion on the floor. Mr. Lawrence stated he understood the number of vehicles on the lot could be no more than 25.

The motion failed 2-2 (Hultstrom and Stelmach opposed).

City Attorney Tietjen explained because the motions on the floor have failed it was as if the Council took no action and the CUP would remain status quo. She explained the applicant would be allowed to have 22 vehicles on the lot and any violations would be reviewed by the Council for possible revocation of the CUP at a future meeting.

Abts asked if the property owner could request a CUP amendment. City Attorney Tietjen reported the property could still apply for a CUP amendment.

A motion was made by Stelmach, seconded by Poppe, to direct staff to revise the conditional use permit language allowing for no more than 24 vehicles at any given time (24/7), noting that a failure to meet this requirement would result in immediate Council consideration for revocation of the conditional use permit.

Johnson stated he did not understand why the Council was making a big difference for just one vehicle.

Stelmach indicated he would like to have a clear motion on record so Mr. Lawrence had direction going forward.

Mr. Lawrence stated he understood that under this motion the number of vehicles on the lot could be no more than 24.

The motion carried 3-1 (Hultstrom opposed).

A motion was made by Stelmach, seconded by Hultstrom, to direct staff to prepare revised language for CUP 1997-32 (616 Central Avenue) and any necessary revocation resolutions for the expired CUPs and bring the resolutions to a future Council meeting. The motion carried 4-0.

9. OLD BUSINESS – None.

10. NEW BUSINESS

A. CONFIRM EDA ACTIONS OF AUGUST 12, 2019

Grams discussed the actions of the EDA. He noted the EDA approved accounts payable and discussed the Osseo Comprehensive Plan.

A motion was made by Stelmach, seconded by Johnson, to confirm the EDA Actions of August 12, 2019. The motion carried 4-0.

B. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

A motion was made by Johnson, seconded by Stelmach, to approve the Accounts Payable as presented. The motion carried 4-0.

11. ADMINISTRATOR REPORT

Grams thanked everyone who attended the Night to Unite event on Tuesday, August 6. He indicated this was a successful family friendly event. He thanked the committee members that planned this event.

Grams thanked Abts for all of her dedicated work on the City's Comprehensive Plan over the past three years.

12. COUNCIL AND ATTORNEY REPORTS

Hultstrom thanked Dave and Roseanna Garibaldi for weeding the City park. She appreciated the fact the city had residents that were so giving of their time.

Hultstrom explained she appreciated all who assisted in planning the Night to Unite event on Tuesday, August 6.

Hultstrom wished Marjorie Johnson a happy 100th birthday.

Hultstrom stated on Monday, August 5, she attended the Greater MSP second annual investment conference in St. Paul.

Stelmach thanked staff and the committee for their great efforts in planning the Night to Unite event.

Stelmach thanked Planner Commissioner Mike Corbett for his service on the Planning Commission.

Stelmach thanked Officer David J. Johnson for his part-time service on the Police Department.

Johnson stated the Night to Unite celebration was a successful event. He thanked his neighbors at Realife Cooperative for volunteering for the event.

Poppe explained he was disappointed to miss Night to Unite as he was in Tennessee with his son who qualified for a bass master fishing tournament.

13. ANNOUNCEMENTS

Poppe stated the Osseo Farmers Market is held every Tuesday from 3-7 p.m. at Boerboom Park. He encouraged residents to visit the Farmers Market on Tuesdays.

Poppe reported Spark Music Studio would be performing for Music in the Park on Tuesday, August 13, at 7 p.m. He explained the movie Coco would be screened at dusk. He stated the Sugar Shack food truck would be present at these events.

Poppe stated the Capri Big Band would be providing Music in the Park on Tuesday, August 20, at 7 p.m.

Poppe explained Bumblebee would be screened for Movies in the Park on Tuesday, August 27, at dusk.

Poppe invited everyone to participate in Lions Roar Coming Friday and Saturday, September 6-7.

14. ADJOURNMENT

A motion was made by Hultstrom, seconded by Stelmach, to adjourn the City Council meeting at 10:01 p.m. The motion carried 4-0.

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.