

CITY OF GRANT
MINUTES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

DATE : August 2, 2016
TIME STARTED : 7:05 p.m.
TIME ENDED : 9:11 p.m.
MEMBERS PRESENT : Councilmember Sederstrom, Lobin, Huber,
Lanoux and Mayor Carr
MEMBERS ABSENT : None

Staff members present: City Attorney, Nick Vivian; City Planner, Jennifer Haskamp; City Treasurer, Sharon Schwarze; and Administrator/Clerk, Kim Points

CALL TO ORDER

Deputy Mayor Huber called the meeting to order at 7:05 p.m.

PUBLIC INPUT

(1) Mr. Jerry Helander, Jasmine Avenue, came forward and commented on the false accusations relating to police reports, requested an apology and asked that the bad behavior be stopped.

(2) Mr. Jim Drost, 8682 Jamaca, came forward and commented on how the City needs elected officials that don't act like clowns.

PLEDGE OF ALLEGIANCE

SETTING THE AGENDA

Council Member Sederstrom moved to add grazable acres to the agenda. Council Member Lanoux seconded the motion.

Council Member Sederstrom stated he would like the City to be consistent with the state regarding grazable acres in relation to manure management.

Mayor Carr stated the City has grazable acres and manure management within the current ordinance.

Council Member Huber stated the Council put a lot of time into the ordinance and requirements incorporating the best of the state and county ordinances. More horses are allowed with a manure management plan.

Council Member Lanoux amended the motion requesting the issue be on the next Council agenda. Council Member Sederstrom agreed to the amendment.

1 Council Member Huber stated two Council Members continue to try to add things to the agenda
2 without any information, background or purpose.

3
4 Mayor Carr added the Council can put items on the regular agenda when submitted to the
5 Administrator with information and there is a point to it.

6
7 **Motion failed with Council Member Lobin, Carr and Deputy Mayor Huber voting nay.**

8
9 **Mayor Carr moved to approve the agenda as presented. Council Member Lobin seconded the**
10 **motion. Motion carried with Council Member Lanoux and Sederstrom voting nay.**

11
12 **CONSENT AGENDA**

13
14 June 28, 2016 City Council Meeting Minutes Approved

15
16 Bill List, \$63,809.76 Approved

17
18 Kline Excavating, Road Projects, \$24,072.50 Approved

19
20 Resolution No. 2016-15, Appointment of
21 2016 Election Judges Approved

22
23 **Council Member Lanoux moved to approve the consent agenda moving the June 28, 2016 City**
24 **Council Meeting Minutes to New Business. Council Member Sederstrom seconded the motion.**

25
26 Deputy Mayor Huber clarified with Council Member Lanoux that he did not email the clerk regarding
27 questions or corrections to the minutes. He stated it is the City’s policy to amend the minutes prior to
28 the meeting.

29
30 **Motion failed with Council Member Lobin, Huber and Mayor Carr voting nay.**

31
32 **Mayor Carr moved to approve the consent agenda, as presented. Deputy Mayor Huber**
33 **seconded the motion. Motion carried with Council Member Lanoux and Sederstrom voting**
34 **nay.**

35
36 **STAFF AGENDA ITEMS**

37
38 **City Engineer, Brad Reifsteck**

39
40 **PUBLIC HEARING, Keswick Avenue Improvements** – City Engineer Reifsteck advised residents
41 submitted a petition for road improvements based on 100% assessments. The feasibility study was
42 prepared and costs were provided to residents. The City received the majority of the waivers back but
43 not all of them, therefore a public hearing is required.

44

1 Deputy Mayor Huber explained the road policy within the City and stated the public hearing should
2 proceed.

3
4 Deputy Mayor Huber opened the public hearing at 7:19 p.m. No one was presented to speak.

5
6 Deputy Mayor Huber closed the public hearing at 7:19 p.m.

7
8 **Consideration of Resolution No. 2016-16, Ordering Public Improvement, Keswick Avenue –**
9 City Engineer Reifsteck advised the City Council authorized preparation of the Feasibility Report for
10 the project area on June 7th and received the Feasibility Report on June 28, 2016.

11
12 As identified in the Feasibility Report, total project cost is estimated to be \$117,550, including
13 construction, legal, engineering, administrative, and finance costs.

14
15 The City notified affected property owners and persons expressing interest in the project of the
16 scheduled Improvement Hearing within the minimum 10-day notification requirement and published
17 the notice of hearing in the City's official newspaper for two weeks.

18
19 The improvements are anticipated to be funded by special assessments to benefitting properties, in
20 accordance with the Assessment Policy, adopted by City Council.

21
22 The benefitting properties have agreed to waive the public hearing for the Keswick Avenue Roadway
23 Improvements. He added two waivers have not been submitted as those property owners are
24 concerned about costs. He recommended the City move forward with the ordering of the project,
25 plans and bids to get the exact costs.

26
27 City Attorney Vivian advised the City will have to schedule an assessment hearing if the waivers are
28 not received. Those property owners can file notice to appeal the assessment.

29
30 Mayor Carr noted the City does have 75% of the residents in favor of the project without the two
31 additional waivers.

32
33 **Mayor Carr moved to adopt Resolution No. 2016-16, with an assessment hearing if the final two**
34 **waivers are not received by August 22, 2016. Deputy Mayor Huber seconded the motion.**

35
36 City Attorney Vivian advised the Council did previously order the feasibility study per findings that
37 the project is necessary and feasible. The City still has to go out for bids. If it is determined that the
38 project is too expensive, the City won't accept a bid. The assessment hearing process is separate from
39 the bid process. The City has to move forward with the project and get the bids.

40
41 **Motion carried with Council Member Lanoux and Sederstrom voting nay.**

42
43

1 **Consideration of Resolution No. 2016-17, Keswick Avenue Road Improvement, Plan Approval**
2 **and Bid Date** – City Engineer Reifsteck advised the City Council authorized preparation of plans and
3 specifications for the project on June 28th.

4
5 The City Council authorized preparation of a Feasibility Report for the project on June 7th, 2016,
6 received the Feasibility Report on June 28th, and ordered the public improvement for the project
7 following a noticed public hearing held at the August 2, 2016 regular Council meeting.

8
9 A bid date and time has been proposed for Wednesday, August 31, 10:00 a.m., 2016. At that time all
10 bids shall be opened, tabulated for mathematical accuracy, and prepared for City Council
11 consideration at the September 6, 2016 regular Council meeting.

12
13 **Mayor Carr moved to adopt Resolution No. 2016-17, as presented. Deputy Mayor Huber**
14 **seconded the motion.**

15
16 Council Member Lanoux stated the City already ordered the project and doesn't know the cost.

17
18 Deputy Mayor Huber stated the City has moved forward and is getting the bids to the petitioners to
19 know the exact cost of the project.

20
21 Council Member Lobin stated the project itself is not moving forward but the City is going to get the
22 bids.

23
24 **Motion carried with Council Member Lanoux voting nay.**

25
26 **McKusick Road Speed Zone Modification** – City Engineer Reifsteck stated a neighborhood
27 meeting was held on June 14, 2016 for property owners adjacent to McKusick Road and the speed of
28 vehicles using the roadway was a concern of many residents.

29
30 Minnesota statute defines maximum speed limits for non-posted roadways. Under specific conditions,
31 the local road authority having jurisdiction may adjust speed limits lower without performing a formal
32 speed study.

33
34 A segment of McKusick Road between Lofton Ave N and 88th Street lies within a rural residential
35 district, a special condition, which allows the local road authority to adjust the speed limit to 35 MPH.

36
37 The adjusted speed limit along McKusick Road is not effective unless the road authority has adopted
38 the speed change and erected signs designating the speed limit and indicating the beginning and end
39 of the rural residential district.

40
41 Deputy Mayor Huber stated in the specified area the lots are more dense. McKusick has always been
42 a problem and much of the traffic on that roadway is speeding. He indicated his only concern is the
43 safety issue of going from a 55 mph to 35 mph.

1 City Engineer Reifsteck stated the City would have to install speed limit change signs in advance of
2 the speed change. The only way to change the speed on the entire roadway is with a speed study
3 which would result in adjusting the speed to the average speed. Experience would indicate that the
4 speed limit would increase. The designated section can be lowered without a speed study because it
5 is within a residential area and zoned residential. Any gravel road that does not have a posted speed
6 limit is 55 mph.

7
8 Deputy Mayor Huber stated residents brought forward a petition to do road improvements on
9 Keswick. The City empowers residents with their own roads. McKusick residents also get to decide
10 what they want on their road.

11
12 Council Member Lobin stated the neighborhood meeting that was held clearly indicated they were in
13 favor of a speed reduction.

14
15 Deputy Mayor Huber stated he would support the speed reduction if the majority of residents are in
16 favor and the City has a plan for proper signage.

17
18 Council Member Lanoux stated “slow” signs could be put up instead of changing the speed limit.
19 The road should just be redone.

20
21 Deputy Mayor Huber stated slow signs do not have legal ramifications like a posted speed limit sign
22 does. A speed zone modification is what is being talked about. The road is unique in a way because
23 of the speed, traffic, etc. If this can be done under state law and it is what the residents want it should
24 be done.

25
26 Council Member Sederstrom expressed concern regarding the appearance of setting a speed trap.

27
28 It was determine staff would do another survey of the neighborhood regarding the potential speed
29 modification.

30
31 **Pavement Condition Report** – City Engineer Reifsteck advised the pavement condition report will
32 provide a **guide** to the City for planning and making strategic decisions related to roadway
33 maintenance and reconstruction activities.

34
35 Each roadway segment is given an Overall Condition Index (OCI) score representing poor, fair, good,
36 or excellent condition and determines the appropriate maintenance required to maximize the useful
37 life of the pavement and to minimize maintenance costs by performing proper actions at the optimum
38 time.

39
40 The report performs cost effective analysis of various maintenance and rehabilitation strategies to
41 extend the life of pavements, which assist the City in making the best decisions on the use of
42 available resources.

43
44 The City’s current annual budget for paved roadway maintenance is as follows:
45

1	Pothole Repairs	\$33,500
2	Seal Coating/Crack Filling	\$34,000
3	<u>Special Road Projects</u>	<u>\$43,485</u>
4	Subtotal Paved Roadway Maintenance Budget	\$110,985
5		
6	<u>Estimated Roadway Improvements by Special Assessments \$100,000*</u>	
7	*Keswick Ave Roadway Improvements	
8		
9	Total Annual Paved Roadway Improvements	\$210,985

10
 11 Deputy Mayor noted the entire budget for next year is approximately \$1.4 million. It is the engineer’s
 12 job to push quality using experience and engineering. The plan points out what the City should be
 13 doing if there was a larger tax base. It is difficult for the City to do that at this time but the plan will
 14 be used to refer to and the City should try to work within it.

15
 16 Mayor Carr stated it is a good study but it isn’t something the City didn’t already know. The road
 17 policy and numbers in the plan just don’t math up. The date can be incorporated into a ten year road
 18 plan and it is a good analysis to have. It shows residents that the City does take the roads seriously.

19
 20 Council Member Lanoux requested the plan be posted on the City’s website. He noted that
 21 continuing as is, patching on McKusick for \$25,000 per year the City could have a brand new road in
 22 ten years.

23
 24 Council Member Sedestrom stated he previously worked with Phil Olson on McKusick to do a patch
 25 and overlay for about \$100,000. It wasn’t done and it should have been.

26
 27 Deputy Mayor Huber stated Keats had to be done in thirds. McKusick wasn’t on the table at that
 28 time. McKusick can be done when other projects that have been started are completed. The City has
 29 to fiscally plan for these road projects years out.

30
 31 **City Planner, Jennifer Haskamp**

32
 33 **Consideration of Resolution No. 2016-18, Application for Septic Variance, 7555 99th Street**
 34 **Court** – City Planner Haskamp advised The Applicant and Owner (“Applicant”), Brad Micetic, has
 35 requested a variance from wetland setbacks for installation of a new mound septic system on the
 36 property located at 7555 99th Street Court North. The Applicant recently purchased the subject
 37 property which includes an existing single family residential home and accessory structure. The
 38 existing septic system which serves the property has failed, and therefore the system must be replaced
 39 to serve the home. The Applicant has been coordinating with Washington County to acquire a permit
 40 for installing the new system, and they were notified by the County that the location of the
 41 replacement system is within the City’s required wetland setbacks and thus would need to obtain a
 42 variance from the city prior to being issued a permit for installation of the new system.

43

1 On July 19, 2016 the Planning Commission held a duly noticed public hearing to consider the subject
2 application. After public testimony and discussion, the Planning Commission unanimously
3 recommended that the City Council approve the request with the stated conditions, as revised.
4

5 **Mayor Carr moved to adopt Resolution No. 2016-18, as presented. Deputy Mayor Huber**
6 **seconded the motion. Motion carried unanimously.**
7

8 **Consideration of Resolution No. 2016-19, Application for Septic Variance, 9313 75th Street**
9 **North** – City Planner Haskamp advised The Applicants, John and Bernadette Fiske, and Owners,
10 Brian and Megan Ratnayake (hereafter collectively referred to as “Applicants”), have requested a
11 variance from wetland setbacks for installation of a new mound septic system on the property located
12 at 9313 75th Street North. A third party inspection of the existing system revealed that the system is
13 non-compliant with current standards, and therefore the Applicants are requesting approval to bring
14 the system into compliance. The Applicants have been working with Washington County to acquire a
15 permit for installation of the new system at which time they were notified by the County that the
16 location of the replacement system is within the City’s required wetland setbacks and thus would need
17 to obtain a variance from the city prior to being issued a permit for installation of the new system.
18

19 The site is located in the Valley Branch Watershed District, and it is the responsibility of the
20 Applicants to contact the watershed district and acquire any necessary permits or approvals prior to
21 beginning work. As referenced previously, the Applicants will be required to obtain a permit from
22 the Washington County department of Public Health and Environment prior to installation of the
23 system, as they are the permitting authority for septic systems in the City.
24

25 The following draft findings related to the hardship (practical difficulty) are provided for your review
26 and consideration:
27

- 28 ▪ The Applicants must replace the non-compliant system to comply the standards of the
29 Washington County Department of Public Health and Environment.
- 30 ▪ Replacement of the non-compliant system is a health, safety, and welfare issue and must be
31 completed to the satisfaction of Washington County to protect the current and any future home
32 owners as well as any adjacent properties which could be affected if the non-compliant system
33 were to remain.
- 34 ▪ The lot is considered a legal non-conforming property for lot area and constrains the buildable
35 area on the site limiting the available locations to site the new system.
- 36 ▪ There is one large wetland/unclassified water body, a stormwater pond and fairly limited depth
37 to groundwater which limit the available area to site the replacement system.
38

39 *Draft Conditions:*
40

- 41 ▪ The Applicants shall be required to obtain the proper permits from the Washington County
42 Department of Public Health and Environment prior to installation of the replacement system.

- 1 ▪ The Applicants shall be required to contact the Valley Branch Watershed District and obtain
- 2 any necessary approvals or permits prior to installing the new system. If no further review or
- 3 permits are required from the watershed district, then the Applicants shall provide a written
- 4 correspondence from the watershed indicating that not further review is necessary.
- 5 ▪ The replacement system must be placed outside of all wetland/ponding areas on the site.

6
7 As recommended by the Planning Commission, Staff prepared a resolution of approval with draft
8 findings and conditions for your review and consideration.

9
10 Mayor Carr advised he did speak to the County regarding a variance for the septic and asked if there
11 was another location for the septic. The County indicated they do prefer to locate the system
12 somewhere that has not already been disturbed but the first choice in this case is the other area.

13
14 Deputy Mayor Huber stated the City does not have the license authority for septic. He did ask about
15 the requirement relating to the design of the septic and ditching that needs to be done wondering how
16 the City ensures that will be done.

17
18 City Planner Haskamp stated the designer has to propose the exact construction that is then reviewed
19 by the county for permitting. There is also a condition that refers to drainage issues from another
20 regulatory agency. It is not uncommon to include those types of conditions for final approval.

21
22 Mayor Carr asked how the exact design of the system is part of the City's resolution for approval.

23
24 City Planner Haskamp stated the cover letter, design and final resolution is what is provided to the
25 County.

26
27 Council Member Lanoux stated the City will see more and more of these types of applications with
28 homes being sold. It is important to keep working with the County on septic and preferred locations.

29
30 **Council Member Lanoux moved to adopt Resolution No. 2016-19, as presented. Council**
31 **Member Sederstrom seconded the motion. Motion carried unanimously.**

32
33 **City Attorney, Nick Vivian**

34
35 **Consideration of Ordinance No. 2016-47, Opt-Out Ordinance or Temporary Family Health**
36 **Dwellings Statute** – City Attorney Vivian stated that effective as of September 1, 2016, a recently
37 enacted Minnesota statute, Minn. Stat. 462.3593 (the "Statute"), will permit certain temporary family
38 health care dwellings ("TFHC Dwellings") to be located adjacent to principal dwellings, subject only
39 to limitations set forth in the Statute. The Statute appears to be designed to permit residents to
40 establish temporary dwelling structures adjacent to their primary residence for family members that
41 need supervision and/or health assistance. However, there are a number of issues raised by this
42 Statute that may cause the City to consider opting-out of the statute, including the following:

- 43
44 1. The Statute is designed to preempt City zoning ordinances with respect to TFHC Dwellings
45 (though do not reduce any set back requirements), and supersedes the City's existing zoning

1 controls with respect to dwellings of this nature. If the City does not opt-out, the sole
2 conditions for establishing such a temporary dwelling will be the conditions set forth in the
3 Statute (attached below).
4

5 2. The temporary nature of the TFHC Dwellings is not ensured by the Statute. The initial permit
6 is applicable for six months (and renewable for another six months). However, nothing in the
7 Statute limits an applicant for reapplying for the permit annually, which could potentially
8 resulting which could potentially permit a dwelling to remain indefinitely.
9

10 3. The Statute requires that an applicant for a TFHC Dwelling deliver certain (minimal) health
11 records to the City. The health records will likely be nonpublic data under the Minnesota
12 Government Data Practices Act, imposing an administrative burden on the City in possessing
13 and maintaining such records in accordance with such Act. Furthermore, such health records
14 may potentially trigger obligations on the City under the Health Insurance Portability and
15 Accountability Act (HIPAA), further increasing the administrative burden on the City.
16

17 For these reasons, they City may elect to opt-out of the Statute, as permitted by Subdivision 9 of the
18 Statute.
19

20 Deputy Mayor Huber stated the opt out portion is a good thing. He read the City's code relating to
21 manufactured homes and noted that society is getting older and nursing homes are getting very
22 expensive.
23

24 City Attorney Vivian stated that is the reason the City may not want to be subject to the state
25 mandated legislation. Each City has its own ordinances and zoning. The City may want to review
26 that specific portion of the code. The opt out provides the City being able to make its own choices
27 relating to this issue.
28

29 Mayor Carr stated the current ordinance does provide options.
30

31 Council Member Lanoux stated the City needs to consider the elderly. The City should review the
32 ordinance and offer options.
33

34 **Mayor Carr moved to approve Ordinance No. 2016-47 as presented. Council Member Lobin**
35 **seconded the motion. Motion carried with Council Member Sederstrom voting nay.**
36

37 NEW BUSINESS 38

39 **Endorsement of Incumbent Craig Leiser, Brown's Creek Watershed District – Mayor Carr**
40 **moved to endorse incumbent Craig Leiser to reappointment on the Brown's Creek Watershed**
41 **District, as presented. Council Member Lobin seconded the motion. Motion carried**
42 **unanimously.**
43

44 UNFINISHED BUSINESS 45

1 There was no unfinished business.

2

3 **DISCUSSION ITEMS**

4

5 **City Council Reports:**

6

7 Council Member Lanoux stated there is a storm water holding pond at the School site which will hold
8 contaminants. It is not holding water so there is illicit discharge in Grant. He inquired about the
9 permitting process.

10

11 Deputy Mayor Huber commented on illicit discharge that can't be found or proven. The City can only
12 make its decisions based on information it has. The City can't make the owners do anything without
13 any proof. He requested Council Member Lanoux go to the School Board meetings. They are the
14 owners of the property and there is no duty for the City to respond to your allegations. Make the
15 School Board answer to you.

16

17 Council Member Lanoux stated the School Board won't address his concerns.

18

19 Deputy Mayor Huber stated the School Board, the MPCA and the City of Mahtomedi don't want to
20 listen to Council Member Lanoux. Mr. Lanoux should take legal action. The School has the
21 responsibility for the site and they have the CUP. In addition, they are adhering to the requirements
22 within the CUP.

23

24 Council Member Sederstrom noted he has the DVD from the City of Mahtomedi meeting and he was
25 not asked to leave. He added that there were budget constraints at the cable commission. Public
26 access was cut and he is concerned that no other options were discussed. IT is very disturbing that the
27 religion channel was taken away with no discussion about playing DVD's. It was not talked about at
28 the regular meeting and no one even knew about the cuts. Hopefully, the commission will consider
29 DVD playbacks at some point in the future.

30

31 Council Member Lanoux stated Comcast as franchise rights in the City. He requested the City to opt
32 out of the commission completely and go to another agency so residents can get what they pay for.

33

34 Deputy Mayor Huber explained the cable commission's role relating to cable and provided the
35 background of the PEG and public access. He noted public access was never part of the agreement.
36 The commission's budget had to be to cities by August 1. It was not surprise to anyone and the grants
37 were cut out as well. No one's freedom of speech has been impacted. Technical people from the
38 commission will be going out to various organizations such as nursing homes and setting up other
39 options for religious programming. He asked if anyone has any questions relating the public access to
40 please give him a call.

41

42 Mayor Carr stated it is very confusing for residents when the meetings get out of hand and everyone is
43 talking at once. The City needs order and decorum at meetings and motions should not be made out
44 of order.

45

1 City Attorney Vivian stated the City has a policy on how meetings are run.

2 **Staff Updates:**

3
4 City Treasurer Schwarze thanked Council Member Lobin for providing refreshments at the meeting
5 tonight. The Council has reviewed the preliminary budget twice and it will be on the regular
6 September meeting agenda.

7
8 **COMMUNITY CALENDAR AUGUST 3 THROUGH AUGUST 31, 2015:**

9 **City Office Candidate Filings, August 2 through August 16, 2016**

10 **Planning Commission Meeting, Tuesday, August 16, 2016, 7:00 p.m.**

11 **Mahtomedi Public Schools Board Meeting, Thursday, August 11th and August 25th,**
12 **Mahtomedi District Education Center, 7:00 p.m.**

13 **Stillwater Public Schools Board Meeting, Thursday, August 25th, Stillwater City Hall, 7:00**
14 **p.m.**

15 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**
16

17 **ADJOURN**

18
19 **Mayor Carr moved to adjourn at 9:11 p.m. Deputy Mayor Huber seconded the motion.**
20 **Motion carried unanimously.**

21
22
23 These minutes were considered and approved at the regular Council Meeting September 6, 2016.
24
25
26

27
28 _____
29 Kim Points, Administrator/Clerk

30 _____
Tom Carr, Mayor