

1. CALL TO ORDER/ROLL CALL

Chairman Lucking called the meeting to order at 7:00 p.m.

Members Present: Chairman Lucking and Commission members John Beal, David Paeper and Mark Spiers

Absent: Todd Palmberg

Others Present: Council Liaison Tom Fletcher, City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

OATH OF OFFICE – Administer Oath of Office to Commissioner Pat Lucking

City Attorney Kelly administered the Oath of Office to Commissioner Lucking.

2. APPROVE AGENDA

Commissioner Spiers asked to amend the agenda to include a discussion about the appointment of a Vice-Chair for the Commission under New Business. The Commission agreed to the amendment.

Commissioner Paeper moved to accept the amended agenda for tonight's meeting. Commissioner Beal seconded the motion. Motion carried 4-0.

3. MINUTES OF April 15, 2009.

Commissioner Beal moved to approve the minutes of April 15, 2009. Commissioner Paeper seconded the motion. Motion carried 3-0-1. Chairman Lucking abstained.

4. LIAISON REPORT

Council Liaison Fletcher updated the Commission on the Southshore Center saying the cities were going to meet and discuss a management firm to oversee the center. Fletcher said the city was getting bids on repairing the lower portion of Greenwood Circle and part of Meadville. He said an ordinance increasing dock fees to \$850 has had its first reading.

The City Council also discussed the Lakeshore Market. Councilmember Page volunteered to meet with the owner to discuss the issues of concern. Fletcher said the Construction Management ordinance was tabled, to allow Councilmembers an opportunity to more carefully review it. He said the Council approved the use of the proposed variance application with one amendment, the removal of requirement for the applicant to contact their adjacent neighbors.

Commissioner Spiers asked if there has been any discussion on the new dock configuration at Excel Marina. Fletcher said a letter was sent by Mayor Kind expressing the city's concerns and requesting that the Sheriff monitor the situation to address any safety issues. Fletcher explained the docks were constructed under a conditional use permit which is renewable annually, giving the city opportunities if there are issues with the new configuration.

5. PUBLIC HEARINGS

TREE PRESERVATION ORDINANCE – Public hearing on the amendment of the existing Tree Preservation Ordinance.

Chairman Lucking introduced the agenda item.

Chairman Lucking opened the public hearing. Hearing no public comment, the hearing was closed.

Chairman Lucking recalled the original reason this ordinance came to the Planning Commission was to address the conditional use fee and questioned whether that was addressed in the ordinance. Council Liaison Fletcher said the conditional use fee has been included in the fees under review by the Council, but has been left blank until the Commission acts on the ordinance.

A question was raised whether the ordinance could contain differing fees for conditional use permits. City Attorney Kelly said a reduced fee for conditional uses pertaining to trees could be established since the scope of review for such a request is less intensive than that of a conditional use permit for a development or use.

Commissioner Paeper noted conflicting measurements between Pages three and ten. The Commission agreed the measurement should be reflected as 32 inches on both pages.

Commissioner Spiers suggested replacing the word "and" with the word "or" under subdivision C relating to replacement trees with would give more flexibility to homeowners. The Commission agreed to the change.

Commissioner Spiers asked that the phrase "and heritage trees" be added to subdivision D to require they be included in tree inventories. The Commission agreed to the change.

Commissioner Spiers asked about the submittal of tree preservation plans and questioned if it were necessary they be submitted by a licensed tree profession. City Attorney Kelly said the Zoning Administrator may accept a plan for an alternate source he deemed acceptable.

Commissioner Paeper outlined some grammatical changes.

Motion by Commissioner Spiers to accept the proposed amendments made to the draft. Commissioner Beal seconded the motion. Motion carried 4-0.

Motion by Commissioner Beal to recommend the City Council adopt Ordinance ____, amending the Tree Preservation Ordinance with the addition of provisions defining and protect Heritage Trees as amended. Commissioner Paeper seconded the motion. Motion carried 4-0.

6. NEW BUSINESS

CONSTRUCTION SITE STORMWATER MANAGEMENT ORDINANCE –

Recommendation to City Council on an ordinance regulating stormwater runoff from construction sites.

Zoning Coordinator Karpas explained that the city is mandated under its NPDES Phase II Stormwater Management Permit and State Statutes, through the Comprehensive Plan, to adopt a comprehensive stormwater management plan, which includes a Construction Site Stormwater Management Ordinance.

He explained that all properties located in the Minnehaha Creek Watershed District (MCWD) are regulated when more than 5,000 square feet are disturbed. This ordinance would require additional permitting through the Minnesota Pollution Control Agency once a project disturbs more than one acre. He said requiring such regulations on projects that disturb less than 5,000 square feet would increase the cost for a simple job such as a garage addition or deck could add anywhere from \$1,000 to \$1,500 in additional costs, with that amount increasing for larger projects such as a new house.

He said the ordinance before the Commission is a variation of the State's model ordinance which has been adopted by cities such as Deephaven, Hopkins and Woodland.

He wanted to give the Commission an opportunity to view the ordinance prior to scheduling a public hearing. Based on the General Permit submitted to the MPCA from the city, this ordinance was to be adopted no later than June, but obviously that isn't going to happen.

Commissioner Beal believes the city should adopt a version similar to that adopted by the neighboring communities.

Commissioner Paeper noted there were a number of definitions which were not included within the ordinance. Karpas said that was also noted by the cities of Deephaven and Woodland, but this was done to meet the minimum compliance with the State Statutes.

Staff was directed to schedule a public hearing on the proposed Construction Site Stormwater Management Ordinance for the June meeting.

MAXIMUM STRUCTURE HEIGHT - Discuss the permitted height for residential properties.

Chairman Lucking said he believed the Commission was trying to establish an overall height for a structure. Commissioner Beal noted there are two measurements, one to the average and one for an overall height. He is concerned they are not consistent.

City Attorney Kelly explained the rationale behind the two measurements was to have one, the overall height, which would be applied to appendages such as chimneys.

Chairman Lucking said he has run the calculations through his head a number of times and feels the number should be between forty-four and forty-eight feet.

Commissioner Beal suggested this item be continued to the June meeting to allow the Commission to revisit the massing ordinance to get a feel of what they were trying to establish at the time.

The Commission agreed and directed staff to place this item on the June agenda.

APPOINTMENT OF A VICE-CHAIR –

Commissioner Spiers asked if there were any provisions that required the Planning Commission have a Vice-Chairman or was it an option for the Commission. City Attorney Kelly said it was an option.

Chairman Lucking said it would be a good idea for a permanent Vice-Chair.

Motion by Commissioner Spiers to appoint Commissioner John Beal as Vice-Chair of the Planning Commission. Commissioner Lucking seconded the motion. Motion carried 4-0.

7. OLD BUSINESS

OUTDOOR LIGHTING ORDINANCE – Discuss potential amendment of the city ordinance to create comprehensive regulations for outdoor lighting.

Chairman Lucking said the proposed draft covered his initial concerns about lighting though he would still like to see a specific requirement for lights to be shielded and downcast.

Commissioner Beal expressed concern that the ordinance would address one of his biggest issues, the lighting at Bean's Marina. He discussed the lighting layout on the site and said that even though you're not looking at a bare bulb, you can still see them through the glass fixture. He would like to see different language requiring them to be full cut-off. Chairman Lucking commented that if all the lighting was shielded, there could quite possibly be a need to add additional lighting to provide adequate lighting for safety.

Chairman Lucking commented there were no provisions directly addressing interior lighting. City Attorney Kelly said the ordinance addresses all sources of lighting and does not distinguish between exterior and interior lighting.

Commissioner Spiers discussed an outdoor lighting globe on one of his neighbor's properties and commented that if the neighbor wasn't as conscious about its use as he was, it would really be an issue for him.

Chairman Lucking discussed lighting, especially along the trail, where you don't necessarily see the bare bulb, but do see the intense reflection off the reflectors. He would like to see a provision requiring that all lighting be downcast.

Commissioner Spiers asked if the use of motion sensor lighting would be in violation of the ordinance. City Attorney Kelly said they are exempted in the ordinance. Kelly also informed the Commission there is a provision in the ordinance restricting lighting between the hours of eleven p.m. and six a.m.

Chairman Lucking said it is going to be very important to inform residents about this ordinance.

Commissioner Paeper commented that the differential included in the enforcement measurement includes ambient lighting. He asked what the term pedestrian view meant. City Attorney Kelly said it means at eye level.

The Planning Commission would like to discuss the proposed ordinance at least one more time prior to scheduling a public hearing.

Council Liaison Fletcher said he had a number of comments on the proposed ordinance. He said that .5 foot candles constitution compliance at the property line is pretty bright and suggested it be reduced to .4 foot candles. He feels that this ordinance may be more permissive than the existing ordinance in terms of viewing the source of light. He said the Commission needs to realize the ordinance may be difficult to enforce. He feels the term "safety lighting" is too loose and it should be more tightly defined and asked if the ordinance should set a maximum duration for a motion sensor light to be illuminated.

Finally, Fletcher believes there should be a date certain set that all properties be in compliance with the ordinance, otherwise everything is grandfathered in perpetuity. City Attorney said there is a process of Amortization for non-conforming structures, but doesn't believe it could be applied to lighting.

The Commission discussed the concept of a firm deadline for converting lighting to comply with the ordinance. Zoning Coordinator Karpas said there may be some enforcement issues, especially once the deadline pasts.

Council Liaison Fletcher said the deadline would provide a fall back for the city for future complaints. He doesn't believe it would be the city's intent to go door to door to ensure compliance.

City Attorney Kelly commented that the Planning Commission's direction to him was to add some more to the existing ordinance, but not to make it overly complicated.

The Planning Commission agreed to place this item on the June agenda for further discussion.

ZONING MAP – Discuss amendment of Zoning Map to reflect districts as described by the City Ordinances.

Chairman Lucking said his original intent in addressing this issue was to correct the zoning designation of the Greenwood Manor property, but as he thought about it, he feels it may be a good idea to rezone a portion of the property to R-1A to match the properties around it.

Commissioner Beal said it was his understanding that the Commission could either fix the map, rezone the property to match the map or do both. He feels an incorrect map is not a good reason to rezone properties.

Commissioner Spiers asked if the city would have any issues with the Metropolitan Council in terms of affordable housing if the property was rezoned for single family use rather than multiple family. City Attorney Kelly said the property is already zoned single family and there have always been issues with affordable housing. He said the reality is Greenwood is a built up community with little opportunity to add affordable housing. He said the Comprehensive Plan references affordable housing in Excelsior as meeting the need for Greenwood.

City Attorney Kelly said splitting the zoning of the lots could be problematic and recommends that the map be corrected first. He suggested staff research the issue as to when the zoning changed.

Chairman Lucking discussed the history of the Greenwood Manor property. He believes the current owner of the property has future plans for the property that may not be permitted by the current code.

Commissioner Spiers asked if there were covenants on parkland, more specifically the parkland near his home on Minnetonka Boulevard. City Attorney Kelly said that specific property has a covenant requiring it remain an undeveloped nature area. Spiers said he would like to see that use more clearly defined with a parking area and trails.

Staff will research the zoning issue and report back to the Commission his findings. In the meantime, the City Engineer will be contacted to change the Zoning Map to reflect the correct zoning.

8. PLANNING COMMISSION LIAISON

Commissioner Spiers will serve as the Planning Commission Liaison at the June 2nd City Council meeting.

9. ADJOURN

Motion by Commissioner Beal to adjourn the meeting. Commissioner Paeper seconded the motion. The meeting was adjourned at 8:40 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator