

MINUTES

Greenwood City Council

Special Meeting

Thursday, April 25, 2013
20225 Cottagewood Road, Deephaven, MN 55331

1. Call to Order ~ Roll Call ~ Approve Agenda

Mayor Kind called the meeting to order at 7:55 pm.

Council present: Mayor Deb Kind, Councilmembers Bill Cook, Tom Fletcher, Bob Quam, and Rob Roy
Council absent: None
Others present: City Attorney Mark Kelly and City Clerk Gus Karpas

Councilmember Fletcher suggested since the Planning Commission has yet to hold their public hearing on ordinance 216 that the agenda be amended to discuss the water agreement with Excelsior and St. Alban's Bay bridge agreement until a quorum is present for the Planning Commission to call their meeting to order. The Council agreed.

Fletcher moved to approve the agenda as amended. Second by Quam. Motion carried 5-0.

Mayor Kind began to discuss a recent email received from the City of Attorney of Excelsior amending the language of the proposed water agreement with the City of Excelsior when a quorum of the Planning Commission became available for their meeting.

The Council recessed their meeting at 7:58 to permit the Planning Commission to hold their public hearing on Ordinance 216.

The Council reconvened their meeting at 8:05.

Councilmember Fletcher suggested that since the Planning Commission has held their public hearing on ordinance 216 and there are residents present to speak on the ordinance, that the agenda be amended to finish the discussion the water agreement and then back to the agenda as originally drafted. The Council agreed.

Fletcher moved to approve the agenda as amended. Second by Quam. Motion carried 5-0.

2. Special Meeting Business

- A. 1st Reading: Ordinance 216; Amending Zoning Cord Chapter 11 Regarding Residential Uses
- B. 2nd Reading: Ordinance 217; Home Occupation Ordinance Amending Chapters 4 & 12
- C. 2nd Reading: Ordinance 218 Amending Penal Code Chapter 9 to Add Prohibited Uses of Residential Properties

Due to the similarities and interconnection of the ordinances, the Council decided to discuss the ordinances as a whole event.

Mayor Kind said the Council previously set the lease requirement in Ordinance 217 at a 30-day minimum, but had asked staff to survey the landlords of existing licensed properties in the city. Zoning Coordinator Karpas said he received five responses back, three which required a one-year minimum, one a six-month minimum, and one a three-month minimum. Three of the landlords included comments asking the city not to regulate the lease terms for rental properties.

Mayor Kind summarized ordinance 216, in which the Planning Commission just held a public hearing. The majority of the ordinance was housekeeping in that it updated the uses in residential uses to reflect the permitted and conditional uses the city must allow under state statute. She said the other portion of the ordinance included

the same definitions as those in ordinance 217 and were included in a public hearing since they would be included in the zoning ordinance as well as Chapter 12 of the ordinance. She said the recommendation of the Planning Commission was to include the 30-day minimum lease period and to also remove "theaters" as a conditional use in the R1-A zoning district.

Mayor Kind gave an overview of Ordinance 218 which has not changed since the first reading and outlined the prohibited uses within residential properties.

Councilmember Fletcher said the definition of "Event Center" was confusing and asked why the minimum lease wording needed to be repeated in this definition. Mayor Kind agreed, noting that the more areas the lease length is put in the ordinance, the more places it would be needed to be amended in the future if it's changed. City Attorney Kelly said they are independent definitions. Kelly discussed the definition of Hotel/Motel noting the intent is trying to prevent the "cycling" of tenants. The Council discussed ways of amending the language more clearly limit the number of renters in a given time period.

Mayor Kind discussed the Old Log Theatre in terms of an Event Center saying they already hold events such as weddings and benefits. Kind said she was supportive of putting an exception in the ordinance for Old Log. The Council agreed. Kelly suggested more general language that excepted properties with existing Conditional Use Permits.

Mayor Kind expressed concern about striking "Theaters" from the ordinance as a conditional use as recommended by the City Attorney and Planning Commission. City Attorney Kelly said the Old Log operates under a Special Use Permit and would still be allowed to operate under its original approval. Mayor Kind stated that Zoning Administrator Karpas reviewed the Old Log property file and could not find any record of an approved Special Use Permit or Conditional Use Permit. Kelly stated that if no permit was found, that the Old Log still would be considered a "Legal Nonconforming Use" and would be allowed to continue its current uses. Councilmember Fletcher expressed concern about leaving the use of the Old Log unknown, saying if he was a potential buyer of the property, he would like some assurances of what he would be able to do with it. Karpas said the current uses would also be allowed to continue provided they are not discontinued for a period of more than one year.

City Attorney Kelly noted the existing conditions contained in the city's ordinances may not be suitable for theaters and it may be in the city's best interest to declare a moratorium to allow further study and ordinance revisions if necessary. Councilmember Fletcher thinks the removal of "theater" as a conditional use would be sending the wrong message. Mayor Kind and Councilmember Quam support keeping the use as a conditional use. Councilmember Roy doesn't know why the language couldn't be stricken. Councilmember Cook said there are a lot of different types of theaters that the city would probably want to protect itself against and to date, the city does not have a strong definition. Though he's in favor of an exemption, he doesn't want to create a loophole.

Mayor Kind opened the meeting to comments from the public.

Joan Moser, 21670 Fairview Street, asked for clarification on the idea about no more than two renters in a four month period. Councilmember Cook said the property could not be offered to more than two groups of renters in a four-month period. Ms. Moser asked what the Council's opinion was on that idea. Cook said any steps the city could take to prevent the cycling of properties is something it should strive to do, but at the same time it should be interested in protecting property rights of those renting their property. He was supportive of the idea of limiting rentals to no more than two groups over a four-month period.

The Council discussed further changes to the ordinance language as it pertained to transient occupancy and how the city could enforce the ordinance.

Zoning Coordinator Karpas noted there have been a number of changes in all the ordinances and suggested to continue the readings of all the ordinances to the May 1 meeting to allow the Council and public to see clean versions prior to making motions on their adoption. The Council agreed to continue the second readings of ordinances 217 and 218, but decided to approve the first reading of ordinance 216 as amended to permit a second reading at the May 1 meeting.

Quam moved the Council approve the 1st reading of ordinance 216 regarding residential uses as amended, and directs that the consideration of the 2nd reading of the ordinance be placed on the 05-01-13 council agenda. Second by Cook. Motion carried 5-0.

Roy moved the Council continue the 2nd reading of ordinance 217 regarding home occupations and ordinance 218 regarding prohibited residential uses to permit further amendment and directs that they be included for further consideration on the 05-01-13 council agenda. Second by Quam. Motion carried 5-0.

D. Discuss: Excelsior Water Agreement Status

Mayor Kind drew the Council's attention to paragraph four which has been amended from the original text. She said the text originally permitted the City of Excelsior Code to rule all aspects of the agreement and though members of the Greenwood Council tried to convince them to change the language, they seemed unwilling to do so. Kind said the language has since been amended by their City Attorney to say that only water-related codes would apply to the agreement. The Council was agreeable to that amendment.

Mayor Kind noted similar language regarding the authority of Excelsior's code was also removed from paragraph fifteen.

Mayor Kind said paragraphs seventeen and eighteen were added to permit mediation should a conflict arise between the cities and a means for paying for the mediation. Kind pointed out that paragraph eighteen required the party initiating the mediation would bear the cost of the mediator, which gives protection to both cities from one just initiating a frivolous action.

City Attorney Kelly suggested language to say that the ordinances would be "equally" applied to Greenwood. He discussed the cost of mediation saying the minimum cost would start at about \$2,000.

Mayor Kind asked the council if they believed the term "equally apply" should be added to the agreement. Councilmember Cook feels it would not change the meaning. Councilmember Fletcher was comfortable with the new agreement without adding additional language.

Cook moved the Council approve the 04-15-13 draft of the Excelsior-Greenwood water service agreement, and authorizes the mayor and city clerk to sign the agreement. Second by Quam. Motion carried 5-0.

E. Discuss: St. Alban's Bay Bridge Agreement Status

Mayor Kind asked for the Council's input on how urgent they felt it was to press the City of Excelsior for action on the draft agreement. Councilmember Quam didn't feel the need to press the issue at this time. Councilmember Roy felt it best to wait until the water agreements were signed and the project was on its way. The Council also discussed the idea of taking on total ownership of the bridge. Councilmember Cook suggested continuing the bridge discussion until the end of the summer.

3. Adjournment

Quam moved to adjourn at 9:30pm. Second by Cook. Motion carried 5-0.

Respectfully submitted by Gus Karpas, City Clerk