

MINUTES OF THE CITY COUNCIL, CITY OF DELANO  
COUNTY OF WRIGHT, STATE OF MINNESOTA,  
WITH ALL ACCOUNTS BEING AUDITED BY SAID COUNCIL

CITY OF DELANO  
JOINT EDA/CITY COUNCIL MEETING  
Tuesday, May 18, 1999  
7:00 o'clock p.m.

1. CALL TO ORDER

Mayor Jaunich called the meeting to order at 7:03 o'clock p.m.

2. ROLL CALL

Members Present: Rhonda Painschab, Jim Mueller, Larry Bartels, John Jaunich,  
Lindsay Wallace

Also Present: Marlene E. Kittock, City Clerk/Treasurer  
Mark Johnson, City Attorney  
Don Burgardt, City Engineer  
Alan Brixius, City Planner  
Kristin Thomas, Video Technician

3. APPROVAL OF AGENDA

(M-99-146) Motion by Mueller, second by Painschab, to approve the agenda as amended, with the addition of 11A, Drainage Issues; 10H, Purchase of Lawn Mower; and 10I, Snowmobile Club. MOTION CARRIED 5-0.

4. MINUTES

A. Special City Council/School District #879 Meeting of April 27, 1999.

(M-99-147) Motion by Painschab, second by Jaunich, to approve the minutes of the Special City Council/School District #879/Park & Recreation Workshop of April 27, 1999, as submitted. MOTION CARRIED 5-0.

B. Summary Minutes of the Special City Council/School District #879 Meeting.

(M-99-148) Motion by Bartels, second by Mueller, to approve the summary minutes of the Special City Council/School District #879/Park & Recreation Workshop of April 27, 1999, for publication in the Delano Eagle. MOTION CARRIED 5-0.

C. City Council Workshop of May 4, 1999.

(M-99-149) Motion by Painschab, second by Mueller, to approve the minutes of the City Council Workshop of May 4, 1999, as submitted. MOTION CARRIED 5-0.

D. Summary Minutes of City Council Workshop of May 4, 1999.

(M-99-150) Motion by Jaunich, second by Bartels, to approve the summary minutes of the City Council Workshop of May 4, 1999, as submitted. MOTION CARRIED 5-0.

E. Joint City Council/EDA Meeting of May 4, 1999.

(M-99-151) Motion by Wallace, second by Painschab, to approve the minutes of the Joint City Council/EDA meeting of May 4, 1999, as submitted. MOTION CARRIED 5-0.

5. INFORMATIONAL PRESENTATIONS/GUEST SPEAKERS

None

6. PUBLIC HEARINGS

A. Utility and Drainage Easements - Maple Knoll Addition.

This Item follows Item 8B.

7. RECOGNITIONS, PROCLAMATIONS, AWARDS

None

8. REPORTS OF COMMISSIONS/BOARDS, OFFICERS AND RELATED ACTION

B. Minutes of Delano Water, Light and Power Commission Meeting of May 11, 1999.

The City Council reviewed the minutes of the Delano Water, Light and Power Commission meeting of May 11, 1999.

6. PUBLIC HEARINGS

A. Utility and Drainage Easements - Maple Knoll Addition.

Brixius reviewed his May 7, 1999 Planner's Report regarding a request by Paul and Tracy Lietzau and Mark and Sue Danielson to vacate certain utility and drainage easements in Lots 21 and 22, BLock 1, Maple Knoll Addition, to permit the construction of a deck on both residences. Brixius noted that the residences were constructed abutting the easements.

The Planning Commission recommended approval of the vacation subject to the determination by the City Engineer that there is sufficient storage in the pond and found that the vacation was consistent with the Comprehensive Plan.

Brixius stated that the City has received a survey from Mark Gronberg indicating that the storage capacity of the pond is approximately one-half of what should be provided. Brixius commented that the pond was created to the appropriate size but was apparently filled in at the time the houses were constructed, and that some modifications will need to be done to correct the holding area.

Mueller noted that the original survey by Mark Gronberg is invalid.

Burgardt stated the majority of the pond exists on Lot 22, with a small portion being on Lot 21, and that the majority of the expansion of the holding area could be completed on Lot 22.

Brixius stated that an affidavit from the contractors was filed with the City certifying that the holding area was constructed in accordance to the approved grading and drainage plan for this development area. Brixius commented that in his opinion the expansion of the holding area should be the responsibility of the property owners.

Mark Johnson, City Attorney, stated that the property owners could pursue recourse with the contractors and that approval of the vacation could be made contingent upon the holding area being expanded and that no building permit will be issued until that work has been reviewed and approved by the City Engineer.

Mark Danielson, Property Owner, stated that he has in his possession a stamped plat that shows this easement was approved by the City and that no fill has been placed in the holding pond located on Lot 22 since he has owned the property.

Brixius remarked that the fill could have been placed in there after the affidavit was filed or that the affidavit is incorrect.

Burgardt commented that the dirt from when the basement was dug may have been pushed into the holding area. This would be an example of an incorrect affidavit.

Mayor Jaunich stated the issue before the City Council is who should bear the costs of the improvements to the holding area.

Mark Johnson stated the property owners are requesting to build into the City's easement and that the work should be made contingent upon the holding area being improved, and that the property owners could either bear the expense of that improvement themselves or pursue recourse through the contractor.

Danielson questioned how the construction of a deck could affect the holding area.

Burgardt stated that the holding area was found to be inadequate to handle the water runoff from this area and that this needs to be corrected.

Danielson inquired what would happen if the deck was not constructed.

Mayor Jaunich stated that the City would probably complete the work and bill the property owners. Jaunich commented that the City Council probably would approve the vacation but that the holding area needs to be improved before the decks are constructed.

**(M-99-152) Motion by Mueller, second by Painschab, to approve and adopt RESOLUTION NO. R-99-19, a Resolution Partially Vacating Certain Utility and Drainage Easements in Lots 21 and 22, Block 1, Maple Knoll Addition, City of Delano, County of Wright, State of Minnesota, subject to the review and approval by the City Engineer that the improvements to the holding area located on Lots 21 and 22 are completed prior to the commencement of any work relating to the construction of a deck on either residence and that said work be completed within 180 days from today's date, and further directing Staff not to record the certificate of completion until the pond area is corrected. MOTION CARRIED 5-0 BY ROLL CALL.**

Mark Johnson stated the property owners have been put on notice that the ponding work needs to be completed.

**8. REPORTS OF COMMISSIONS/BOARDS, OFFICERS AND RELATED ACTION, CONTINUED**

The City Council reviewed the minutes of the May 10, 1999 Planning Commission meeting.

**A1. Henry Mullen - Conditional Use Permit.**

Brixius stated the applicant was requested to submit a revised site plan by the Planning Commission, which has not yet been received.

Kittcock noted that a letter has been sent to the property owner extending the time limit to 120 days.

**9. OLD BUSINESS**

**A. Waste Management Rates.**

**(Rhonda Painschab leaves the room)**

Mayor Jaunich noted that a joint meeting with the Planning Commission has been scheduled for May 25th, and recommended that this item be added to the agenda.

Denise Bernick, Delano, inquired what the status of the billing system is regarding the garbage bills. Bernick stated that it has been brought to her attention that it is against Federal Law

to bill administrative fees without itemizing them.

Mayor Jaunich stated that Randy's Sanitation is working on a new billing system but it is not ready to be implemented at this time.

Bernick commented that administrative fees are necessary, but in her opinion felt that the City's fees are excessive.

Mayor Jaunich stated that Delano Utility is looking at ways to itemize the administrative fees on their bills as well.

Mark Johnson, City Attorney, remarked that he was unfamiliar with the law that Bernick was referring to, but would be happy to review any information she has regarding that. Johnson stated in his opinion he does not feel the City is doing anything illegal.

Bartels commented that the administrative fees are necessary to cover the costs of the compost pile, brush pile, billing, and other various items. Bartels stated that the waste management contract with Randy's Sanitation does itemize how the fees are broken out and that public hearings were held regarding this matter when the City elected to raise the rates. Bartels noted that unfortunately no one was in attendance at these meetings, but that the public was notified of the increase in the Delano Eagle.

Della Davis, 235 Honeytree Drive, commented that the residents should be notified individually rather than through the local paper.

Mayor Jaunich stated that the City is considering the possibility of eliminating the compost and brush piles.

Bartels remarked that these administrative fees could also be included on the individual's property taxes.

Bernick stated she would just like to know what she is being billed for and that she would like these costs itemized on the bill.

Jim Wollschlager, Randy's Sanitation, addressed the City Council regarding Randy's proposal to enter into a new waste management contract for five years, which would extend through to June 30, 2004, eliminate the 20 gallon container and allow for three levels of service; a 38, 60, and 90 gallon container. Randy's has a guarantee that the landfill fee charged to the City would remain the same for the term of the contract. Wollschlager stated under this new contract Randy's would also provide new containers to the residents and continue to host the Delano Cleanup at no cost to the City.

Mayor Jaunich inquired how the Delano Cleanup went that was conducted approximately two weeks ago.

Wollschlager stated there was excellent turnout, noting that the turnout has remained the same for the past two years.

Kittock noted that the City of Delano does share in one-half of the cost, along with Franklin Township, for the Goodwill container that is provided at the Delano Cleanup.

Wollschlager commented that the cost to Randy's for this event is approximately \$4800.

Kittock inquired whether Randy's would continue to do leaf and brush pickup in the spring and fall under this new contract.

Wollschlager stated that service would continue.

Mueller remarked that he would be willing to approve this new contract with Randy's, noting that they currently are in the second year of a three year contract with Randy's.

Wollschlager stated that Randy's would prefer the City enter into the new five year contract rather than attempting to modify the old contract.

In response to Louie Markenton's inquiry, Mayor Jaunich noted that a consumer price index (CPI) factor is included within the proposal that will allow for periodic rate adjustments.

Mueller stated that in his opinion this contract would benefit the City by the fact that the landfill rate is guaranteed not to be raised for five years, which is a big portion of the costs, and that containers with wheels will be provided.

Bartels suggested that this item be discussed in a workshop to allow the City Council to determine what, if any, programs should be cut in order to permit the City to enter into the new contract.

Wallace commented that the impact to the City's budget will also need to be reviewed.

Dan Vick, Delano, commented that he prefers the current billing system and would rather not receive two bills. He further commented that the City should perhaps look at other sanitary providers to insure that the City is receiving the best rate.

Mayor Jaunich requested that City Staff schedule a workshop to discuss this item further.

(Painschab returns at 8:23 p.m.)

**B. Farr Construction - Building Permit Fees for 100 Bridge Avenue.**

Kittock stated that Ann Farr has expressed some concerns and questions regarding the SAC, trunk, water, and other fees that have been charged on her building permit.

Fred Farr, 10175 County Road 17, stated that Farr Construction had applied for a permit to improve the building located at 100 Bridge Avenue and was surprised at the high amount being charged for the SAC and trunk charges. Farr commented that before they had applied for the conditional use permit, they had researched the costs necessary to complete this project and were not informed about the SAC and trunk charges that would be charged for

each individual apartment until they went to pick up the building permit.

Farr also noted that they were being charged the new park dedication fee which had recently gone into effect a few days before their permit was approved. Farr stated they are merely constructing some apartments and not putting in a subdivision and that the park dedication fee is excessive.

Farr stated that they are also being required to bury the electrical lines to their building as part of this improvement, noting that the business next to theirs was not required to bury their electrical lines when they recently improved that structure.

Farr commented that they are attempting to improve the downtown area and should not be penalized by excessive fees, noting that they are not receiving any monetary assistance from the City for this project.

Mayor Jaunich inquired whether Farr was requesting that the SAC and trunk charges be waived.

Farr stated that they are willing to pay some fees but that the amount being charged is excessive in light of the other fees being charged for this project. Farr requested that the amount of the SAC and trunk charges be reduced, and if the charges cannot be reduced, that Farr Construction would probably not be able to afford to construct all three apartments.

Ann Farr commented that she does not understand why she was not informed about these fees before the permit was issued.

Mayor Jaunich stated that the City is not able to outline the fees and charges associated with a project unless definite plans are submitted to City Staff and they are requested to provide that information.

Mark Johnson, City Attorney, stated that the City in the past has not waived SAC and trunk charges, but commented that the new park dedication fee could perhaps be reduced since this application was in the process of being considered at the time the new fees were adopted.

Brixius stated that the City would like to encourage improvements to the downtown area, noting that the park dedication fee could perhaps be reduced.

Farr stated he would be in favor of paying a reduced park dedication fee and only constructing one apartment at this time in an effort to keep the costs down. Farr inquired whether the SAC and trunk fees could be special assessed to enable them to pay those fees over time.

Kittock stated the City does not have a practice of special assessing those fees.

Brixius stated if the improvements are not completed, then the conditional use permit becomes null and void, and recommended amending the conditional use permit to allow the construction of one apartment with the possibility of adding the other two apartments at a later time.

Ann Farr questioned whether the penalty fees could also be waived.

Bartels stated that the building inspector will need to be contacted so this issue can be discussed with him, and requested that City Staff contact Loren Kohnen to see if another building inspector could conduct the inspections on this building.

Brixius recommended that the City Council recognize that the conditional use permit approved for Farr Construction for work being done at 100 Bridge Avenue permits the construction of the three apartments, but at this time only one apartment will be constructed, and to allow the conditional use permit to remain valid to permit the future construction of the other two apartments. Brixius suggested that the work on the other two apartments be completed within two to three years or the applicant could request an extension of the conditional use permit within 30 days of the expiration date.

**(M-99-153) Motion by Bartels, second by Jaunich, to amend the conditional use permit approved for Farr Construction for work being done to the structure located at 100 Bridge Avenue to allow for the construction of one apartment at this time, recognizing that the conditional use permit allows for three apartments, and to allow the conditional use permit to remain valid to permit the future construction of the other two apartments within three years. If the work is not completed within the three years, the Applicant has the right to request an extension of the conditional use permit within 30 days of the expiration date. The Applicant is further required to pay one SAC and trunk charge, as well as one WAC, relating to the one apartment at the time the building permit is picked up, and would be required to pay any SAC, trunk, and WAC associated with the other two apartments at the time the building permit is issued for the other apartments. The Park Dedication Fee is reduced to the old rate of \$300, and the new rate for Park Dedication at the time the permit is pulled for the other units, and City Staff is directed to review the penalty fees charged following a conferral with the building inspector. MOTION CARRIED 5-0.**

(Recess taken from 8:58 p.m. to 9:08 p.m.)

## 10. NEW BUSINESS

### C., D., and E., Donations from the Delano Jaycees

Scott Schultz, Delano Jaycees, presented the City of Delano with a check for \$25,000 towards an elevator at the Library Community Meeting Room, a check for \$1,000 towards improvements to the park, including upgrading of the volleyball courts, and a check for \$2500 towards the Summer Recreation Program.

## 9. C. SCHOOL DISTRICT #879 - CONDITIONAL USE PERMIT

**(M-99-154) Motion by Wallace, second by Painschab, to approve and adopt RESOLUTION NO. R-99-20, a Resolution Approving a Conditional Use Permit for**

**the Placement of Fill in Excess of 400 Cubic Yards for Property Located at 700 Elm Avenue, contingent upon the creation of additional holding ponds as required by the previous 1991 conditional use permit, with said work being completed by December 1, 1999. MOTION CARRIED 4-1, JAUNICH OPPOSED.**

Jaunich stated that the School District assumes the responsibility of constructing the additional holding pond once work is commenced under this conditional use permit.

**D. Billing of Sanitary and Storm Sewer for Apartment Buildings, Multiple Buildings.**

Kittock stated the City has received a May 10, 1999 letter from Carla Krueger of St. Cloud Area Legal Services Association regarding the billing procedure that the City currently has regarding water, sanitary sewer, and storm sewer. Currently the City directly bills each tenant rather than the landlord. Kittock stated according to MN Statute 504.183, Subd. 1a., the owner of a single-metered residential building shall be the bill payer responsible, and shall be the customer of record contracting with the utility for utility services. It is the Legal Services Association's opinion that the City's billing method is contrary to state statute and should be billed directly to the landlord. Kittock remarked that she has not heard any response from the landlord.

Mark Johnson, City Attorney, stated he would like to verify what the state statutes say and recommended this issue be reviewed at the next City Council meeting.

Mayor Jaunich directed City Staff to table this item until the next meeting to allow the property owners an opportunity to comment.

**E. Delano Crossings Development.**

Richard Grinley, Attorney Representing Delano Crossings, introduced Dave Grimmelman of BrightKEYS.

Dave Grimmelman, BrightKEYS, addressed the City Council regarding the type of housing units they are proposing to construct as part of the Delano Crossings Development. Grimmelman stated that the number of units for this development has not been specified at this time for the 20 acres that they have recently purchased. Grimmelman stated they currently utilize the Williams & O'Brien Survey Company to survey the occupants of their units after each sale to determine the quality of the service they received during the process of purchasing the unit as well as their opinions on the housing unit itself.

Grimmelman presented the City Council with drawings depicting the various housing units constructed by BrightKEYS, noting that they have three different styles available for purchase which appeal to different segments of the housing market.

Brixius inquired whether these homes would be constructed with basements and what kind of storm protection would be offered with this type of housing.

Grimmelman stated that the row style house does offer the ability to construct a basement,

noting that all three style homes are constructed to meet all the applicable building codes.

George Stickney, Developer, stated that the other 20 acres will also be residential.

In response to a question by Brixius regarding the resident profile of this type of housing, Grimmelman stated that this type of housing generally appeals to the young professional or young couples without children. Grimmelman remarked that the types of housing they are proposing range from approximately \$115,000 to \$150,000.

Ted Tschida reviewed a May 17, 1999 letter from Advance outlining the various offsite costs associated with the Delano Crossings development, noting that the City's share is approximately \$438,000 and the Developer's share is approximately \$700,000. Tschida remarked as part of the financial plan for this project, the developer is proposing to make certain cash contributions, have a portion of the costs assessed against the property, redesign the storm sewer for Franklin Avenue, and have a partial reimbursement to the developer via a combination of tax abatement and trunk fee revenues.

Mark Johnson, City Attorney, inquired whether the developer was proposing a special assessment instead of a G.O. Bond.

Tschida replied yes.

Burgardt commented that their firm is looking at whether the storm sewer pipe can be reduced from 36 inches down to 27 inches. Burgardt stated that the pipe can only be reduced to 30 inches, noting that he does not have the final figures for this project, especially as they relate to Franklin Avenue.

Brixius stated that the storm sewer improvements are mandatory as part of this project and that the City Engineer is reviewing that portion of the project. Brixius commented that in his opinion this proposal is acceptable, and that if the City Council agrees, Staff should go ahead with the tax abatement district. Brixius remarked as part of the financing for this project, the City would credit the developer for a portion of the trunk fees paid on the first phase of the project.

Ted Williams, Developer, stated the storm sewer analysis will be completed tomorrow.

Burgardt stated that he should be able to complete his review of the storm sewer analysis in a couple of days and have his report finished by Friday or early next week.

Mayor Jaunich noted that a referendum is not needed for this project.

George Stickney commented that they would like to have the sewer and water out to this area by this fall.

Mayor Jaunich requested that the developer work with City Staff on developing a time frame for when the work should be completed.

Brixius stated that a development agreement will also need to be executed as well as

establishment of the tax abatement district.

**10. NEW BUSINESS, CONTINUED**

**A. 4th of July Committee - R.V. Electrical Station.**

Mayor Jaunich stated work on relocating the electrical lines is scheduled for Monday.

**B. Resignation of Richard Weinmeyer from Planning Commission.**

(M-99-155) Motion by Wallace, second by Mueller, to accept the resignation of Richard Weinmeyer from the Planning Commission, effective immediately.  
**MOTION CARRIED 5-0.**

Mueller thanked Weinmeyer for his many years of fine service on the Planning Commission, and requested that a letter of appreciation be sent.

**F. Hiring of Street/Maintenance Position.**

(M-99-156) Motion by Wallace, second by Mueller, to authorize the hiring of Tim Schrupp for the full-time position of Street/Maintenance employee effective June 1, 1999. **MOTION CARRIED 5-0.**

**G. Year to Date Financial for April, 1999.**

Kittock reviewed the monthly financial report for April, 1999.

**H. Purchase of Lawn Mower.**

Dan Alger reviewed his May 18, 1999 memorandum regarding the purchase of a multi-use lawn tractor to replace a 1982 Kabota tractor and lawn mower. Alger recommended the City authorize the purchase of the F1145 tractor for \$9750.00.

(M-99-157) Motion by Jaunich, second by Wallace, to authorize the purchase of a 1993 John Deere F1145 Four-Wheel Drive Tractor at a cost not to exceed \$9800.00, plus tax. **MOTION CARRIED 5-0.**

**I. Delano Snowstormers Snowmobile Club.**

(M-99-158) Motion by Wallace, second by Painschab, to approve and adopt **RESOLUTION NO. 21, a Resolution Approving MN Lawful Gambling "Application for Exempt Permit" for the Delano Snowstormers Snowmobile Club. MOTION CARRIED 5-0.**

**11. ELECTED OFFICIAL REPORTS**

**A. Drainage Complaints - Maplewood Estates.**

Painschab stated she has received some complaints regarding water runoff problems in Maplewood Estates and she would like City Staff to review this situation.

Alger stated he has spoken with one of the residents and presented the City Council with pictures showing the water runoff problems. Alger suggested that straw bales be placed in the area until a more permanent solution can be arrived at.

Burgardt commented that a silt fence was originally located in that area, which is now gone. Burgardt stated he will speak with the developer about putting the fence back in.

Brixius suggested that Martineau also be contacted regarding this situation.

**12. EXECUTIVE SESSION**

(M-99-159) Motion by Mueller, second by Wallace, to enter into Executive Session based on attorney/client privilege to discuss pending litigation regarding the Harcey matter and to discuss threatened litigation regarding noise complaints. MOTION CARRIED 5-0.

(City Council entered into Executive Session from 10:11 p.m. to 10:35 p.m.)

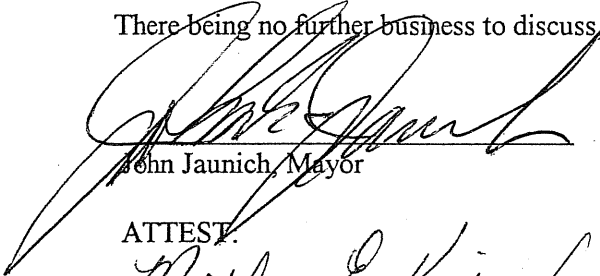
(M-99-160) Motion by Wallace, second by Jaunich, to come out of Executive Session. MOTION CARRIED 5-0.

**13. CLAIMS**

(M-99-161) Motion by Painschab, second by Mueller, to approve City and Liquor Store claims totaling \$166,245.19. MOTION CARRIED 3-0-2, JAUNICH AND BARTELS ABSTAINED.

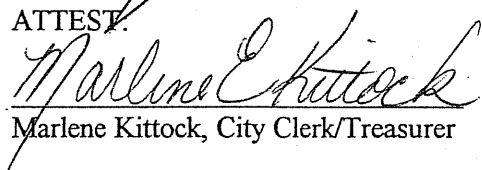
**14. ADJOURNMENT**

There being no further business to discuss, the meeting was adjourned at 10:43 p.m.

  
John Jaunich, Mayor

  
Jackie Young, Recording Secretary

ATTEST:

  
Marlene Kittock, City Clerk/Treasurer