

**CITY OF NORTH ST. PAUL
PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY, JUNE 7, 2018
6:15 P.M.**

North St. Paul City Hall – Council Chambers
2400 Margaret Street

I. CALL TO ORDER

Chair Barton called the meeting to order at 6:15 p.m.

II. ROLL CALL

COMMISSION

Elaine Barton, Commission Chair

Trisha Hamm, Commission Vice-Chair

ABSENT

Tom Sonnek, Commission City Council Liaison

Chris Bathurst, Commissioner

Michael Stahlmann, Commissioner

Rick Gelbmann, Commissioner

John Wahl, Commissioner

Allan Worm, Commissioner

STAFF

Erin Perdu, City Planner

Karin Derauf, Commission Secretary

III. ADOPT AGENDA

Motion to adopt agenda by Commissioner Gelbmann, and seconded by Commissioner Bathurst, with all present voting aye (6-0). Motion carried to adopt the June 7, 2018 Agenda.

IV. APPROVAL OF MINUTES

Motion to approve Minutes by Commissioner Worm, and seconded by Commissioner Wahl, with all present voting aye (6-0) with the following changes, in Section VI, paragraph 2, correct spelling of resident's name from John Schmalz to John Schmahl, add a return line between paragraph 23 and 24, change paragraph 27 from "...and wanted to add information regarding Star Watching..." to, "and wanted to add information regarding attention to shielded lighting to reduce light pollution and aid star watching...", add to paragraph 28 the following, "Planner Perdu will review all comments during the six month adjacent community review and will return to the Planning Commission with any changes or comments from those communities". Motion carried to approve the May 3, 2018 regular meeting minutes as submitted.

V. MEETING OPEN TO THE PUBLIC

Resident, John Schmahl, of 2750 Chisholm Avenue, requested the correction in the spelling of his name from the May 3, 2018, Meeting Minutes.

VI. PUBLIC HEARINGS

Chair Barton recused herself from the Public Hearing regarding the IUP annual review at 2115 Burke Avenue. The meeting was turned over to Commissioner Stahlmann to act as Interim Chair during Chair Barton's absence.

Planner Perdu reviewed the Staff Memo regarding the IUP review to give information regarding the snowplowing equipment and conditions of the IUP. She briefly reviewed the six conditions of the Council Resolution which involved change in ownership of the property, equipment storage, loading and parking, annual review, inspections, and hours of operation. She reported that the IUP is before the Planning Commission due to a complaint over the past year regarding loading and unloading of equipment on the street. There are accompanying photos surrounding one snow event in January 2018. As per Planner Perdu, loading and unloading would appear to be a violation of the third condition in the IUP. She spoke to the City Attorney regarding any remedies that are available for a violation of an IUP, and he gave the following three options, revoke the IUP, do nothing, or modify the conditions of the IUP.

Commissioner Stahlmann, as well as, Commissioner Worm, asked why the review is being conducted by the Planning Commission rather than the City Council. Planner Perdu responded by stating that the staff generally does the annual review, however, in the event that there are complaints or violations, that is when it would come to the Planning Commission for review and then passed along to the City Council with the recommendations from the Planning Commission. Ultimately the City Council makes the determination of whether to revoke or amend the IUP.

Applicant, Tony Eiden, at 2115 Burke Ave. E., stated that the loading and unloading incident that is being referenced in the complaint is during his working time. He finishes his route which concludes with customers from his own neighborhood. He unloads his equipment down the street from his house, and then plows his neighbor's driveways, working towards his own house, and finally completes his own driveway last. Rather than driving the bobcat back down the street to load, he drives his bobcat into his garage for storage and walks back to get his truck and trailer to drive into his driveway, as he is finished with his plowing route. He commented that this is no different than someone loading and unloading lawn mowers or other equipment during the summer while working on customer's lawns. The unloading and reloading happens in the street as part of conducting business. The difference is he is not driving his bobcat back down the street and reloading. He is driving the bobcat right into his storage area because the last driveways on his route are those of his neighbors and then, finally, his own.

Commissioner Gelbmann asked the applicant for any solutions that he might have. The applicant commented that he doesn't see any solutions, because the two individuals who have complained about him have been complaining about him for 15 years. He doesn't feel that it will end. He remedies a complaint and they come up with a new one.

Public Hearing opened at 6:37 p.m.

Applicant, Tony Eiden, read letters submitted from his neighbors in support and favor of him conducting his business and having his IUP kept in place. The letters are from the following residents:

Phillip Hanson, 2109 Burke Ave. E.

Rich Nifke, 2114 Burke Ave. E.

Matt and Barb Williams, 2102 Burke Ave. E.

Mary O'Connor, 2120 Burke Ave. E.

Copies of these letters are included with the June 7, 2018 Planning Commission Minutes as a matter of record (see attached).

Other residents in attendance at the Planning Commission Meeting of June 7, 2018, came forward to speak on behalf of Mr. Eiden, also in support and favor of him continuing to conduct his business with the IUP in place. The residents who spoke during the Public Hearing are as follows:

Lena and Damian Nins, 2137 Burke Ave. E.

Ron Kasprzak, 2107 Burke Ave. E.

Barbara and Andrew Smith, 2090 Burke Ave. E.

John Schmahl, 2750 Chisholm, commented on a procedural issue regarding receiving the information on this IUP from the City Website. The pictures were distorted so he called the Communications Administrative staff to notify her. His question is regarding why a document was posted on May 30th, as opposed to being posted directly with the full packet for this meeting. Planner Perdu responded that there was an error with the photos, they were corrected, and that the Public Hearing notice was posted separately, however, it is unknown why that happened. Mr. Schmahl also commented about the IUP and that this isn't a noise complaint, even so, there is nothing in the agenda or memo indicating from code compliance what the actual complaint is. He is wondering why code compliance staff is not at the meeting to address what the complaints are.

Resident, Ron Kasprzak, 2107 Burke Ave. E., asked why one of the complainants, Elaine Barton is not at the meeting to hear the other side of the story. He doesn't feel it's fair that she is not here to listen to the applicant state why he was loading and unloading his equipment while conducting business.

Interim Chair Stahlmann stated it is the choice of the complainants to attend or not. They are not required to attend. He also stated that Chair Barton has the right to recuse herself from the meeting if she feels a personal conflict as she is part of the Planning Commission and the Planning Commission is making a recommendation regarding this IUP. He stated it is her choice.

Resident, Mike, 2120 Burke, came forward to speak on behalf of Mr. Eiden, in support and favor of his business.

Applicant, Tony Eiden, asked to have the IUP approved.

Commissioner Gelbmann asked the public how many of them utilize Mr. Eiden's services. Three residents raised their hands. Commissioner Wahl asked the public if any of them had concerns regarding Mr. Eiden's business being conducted outside business hours of operation. The public present at the meeting were all in agreement that none of them had problems with the applicant.

Public Hearing closed at 6:51 p.m.

Commissioner Wahl stated that this hearing has nothing to do with noise, but rather, the primary complaint and the pictures are in regards to the bobcat not being loaded and unloaded in the driveway. He feels we need to focus our efforts on this rather than noise.

Council Liaison Sonnek asked Planner Perdu to clarify the third condition of the IUP in regards to any violations, and if there are any reports or documentation from code compliance. Planner Perdu stated that there is no specific documentation from that department, however, Fire Chief, Scott Duddeck did inform Planner Perdu that he had a conversation with the applicant. Planner Perdu noted that meeting did not result in any documentation. City Council Liaison, Tom Sonnek, indicated that we need a more formal complaint and documentation system. However, he feels that we have enough substance that the Commissioners can still have a relevant conversation regarding what to do in regards to the IUP.

Council Liaison Sonnek stated that there is no complaint regarding noise, and Planner Perdu indicated that the noise complaint was from last year; however, those complaints have been addressed, as part of the conditions of the IUP regarding the loading and unloading during particular hours. Planner Perdu commented on a letter of complaint that was submitted by a resident, and it was not in regard to noise.

Commissioner Gelbmann commended that the loading and unloading is part of the regular business operations that must be conducted. Council Liaison commented that a lawn service would have similar business operation practices. He asked the applicant whether the loading and unloading is only during times of business operations. Applicant, Tony Eiden, stated yes and that all other times of loading and unloading take place in his driveway.

Mr. Eiden believes that the photo evidence turned in was during one occasion when he was having mechanical problems with his bobcat while on the street, in front of his home. He worked as quickly as he could to get the machine into his driveway so it was off the street.

Commissioner Worm asked how the applicant loads and unloads his bobcat onto his trailer when it is in his driveway. The applicant stated that he backs his truck and trailer into his driveway and drives the bobcat stored in his garage right up on to the trailer. He stated that the truck and trailer take up the full space of his driveway; however, it does not hang over in to the street. He is fully in his driveway at the time of loading and unloading.

Council Liaison Sonnek clarified that it is not illegal for others to load and unload in the street; however, it was added as a condition to the IUP because this is a residential business. He clarified that the loading and unloading happens in the driveway, but there have been rare occasions that it has happened in the street. The applicant confirmed that this is true. Council Liaison Sonnek asked Planner Perdu for information regarding licensure of the applicant's particular kind of business. Planner Perdu confirmed that there is not a required license for concrete or snow plowing work. She also confirmed that there is not a gross weight requirement for this applicant as he is not a commercially licensed business. She stated that the Code reads a "commercially licensed truck, trailer, or bus with a gross weight over 6 tons". Commissioner Bathurst reiterated that the applicant is not a commercially licensed business so this doesn't apply.

Council Liaison Sonnek asked Planner Perdu to address the issue of the Right of Way and his truck and trailer extending into this. Planner Perdu states that there is currently nothing in the ordinance that indicates he cannot park in the Right of Way in his driveway. There is a provision that prevents blockage of a sidewalk; however, the applicant does not have a sidewalk crossing his driveway. Code Enforcement has visited the residence to view the daily parking of the truck and trailer, and have not deemed it a violation. Council Liaison Sonnek indicated that he thought a portion of the Ordinance does address parking in the Right of Way, however, it is currently not

enforced. He interprets the Ordinance as stating that no one may park in the Right of Way whether they have a sidewalk or not, but due to shortened driveways, residents having more than one vehicle, or friends visiting, etc., there are many residents that encroach on to the Right of Way. Liaison Sonnek states that currently the Ordinance exists; however, enforcing it would potentially cause undue distress to the residents. Every resident is expected to follow the Ordinances, so it is difficult to address the Right of Way in relation to the applicant if other residents are not adhering to it as well. Commissioner Gelbmann poses a rhetorical question as to the difference of parking in the Right of Way in your own driveway as compared to parking in the street with a car. Which one would be more hazardous or compromising for emergency vehicles?

Council Liaison Sonnek moved on to the storage of equipment or materials. There was a complaint about the storage of concrete forms stored in the back yard. The applicant states that it is stored out of site, in his back yard, and under his deck. He inquired as to how anyone would know it was stored there unless they were in his back yard. It was stated by Interim Chair Stahlmann, that a photo was submitted showing the applicant carrying the concrete forms. He indicated that he was probably going to use them for work so he was carrying them.

Planner Perdu indicated that outdoor storage is prohibited on the IUP, so that would be a violation. She also stated that she had been to the site after a complaint was taken and there was no outdoor storage of the equipment at the time of her visit.

Commissioner Wahl commented that he feels the only issue the Planning Commission should be addressing during this meeting is the issue of loading and unloading. Liaison Sonnek indicated that the loading and unloading is generally happening in the driveway and there has been an occasion of it happening in the street. Does this one time violation mean that there is instant revocation of the IUP? He wonders why there is no system of progressive discipline regarding this issue. He is in agreement with the applicant when the applicant stated that he feels undue stress when going to work for fear of being videotaped or photographed for possible violations. Liaison Sonnek stated that no one should have to feel that way when going to work.

Planner Perdu reminds the Commission that if there were no violations or complaints this review would not be before the Planning Commission. It is only here because there were complaints and therefore a review is required. Commissioner Wahl reiterated the options before the Planning Commission as modify, revoke, or do nothing with the IUP.

Applicant, Tony Eiden, again cited the logistics of his loading and unloading in the street during regular business operation and that he has been trying to comply as best as possible to the conditions of the IUP as it is written.

Commissioner Gelbmann felt that it was enlightening to have the applicant here to answer all the questions regarding complaints and feels that the complainants may not be aware of the logistics and business operations of the applicant. The applicant stated that he feels they are aware, because they have been complaining for 15 years. The applicant stated that he takes any necessary corrective measures on complaints, and then a new, unrelated, complaint is made against him.

Interim Chair Stahlmann stated that he feels this whole issue is a matter for code enforcement and the Planning Commission shouldn't be making a recommendation for the IUP at this time.

Discussion regarding the remedy options ended and a motion was made by Commissioner Worm to make no changes to the existing IUP, seconded by Commissioner Bathurst, with all present voting aye (5-0).

Council Liaison Sonnek has concerns regarding documentation; follow through, consensus, and final conclusions for both the complainant and the IUP holder. A consensus direction was made to recommend to Council the follow up of reports regarding code enforcement as it relates to IUP's.

VII. COMMISSION BUSINESS ACTION ITEMS & RECOMMENDATIONS

Commission Chair, Elaine Barton, rejoined the Planning Commission meeting.

A. Dangerous Dogs Ordinance Update

City Council Liaison, Tom Sonnek, felt that the Planning Commission might like to review the Ordinance pertaining to Dangerous Dogs. Some changes that the Planning Commission noted are as follows:

In Chapter 95.19 DANGEROUS ANIMALS, section (B) (1), remove the word “uninvited” in the last sentence and change the word “home” to “property”. In section (C) (a) and (b) change “without provocation”, to “when provoked”, in (c) remove the word “domestic”.

In Number (2) POTENTIALLY DANEROUS ANIMAL, (a) after the word “bites”, add “or injury” and remove the word “domestic”, in (d), remove the word “domestic”

In Number (4), UNPROVOKED, section (I), second paragraph, change the second to last sentence from, “...for consideration by the Animal Control Officer without further foundation”, to read “...for consideration by the City Council without further foundation.”

On the Declaration and Appeal forms, make a distinction between the terms “may be” and “will be” at the bottom of the forms in the second to last sentences of the last paragraphs of each form where it reads, “In the event that the order is upheld...” or “...if the designation is upheld...” the portion that follows each sentence needs clarification and/or consistency.

VIII. REPORTS FROM STAFF

A. Maplewood Comprehensive Plan Review

Planner Perdu stated that the City of North St. Paul has received a copy of the draft 2040 Maplewood Comprehensive Plan for adjacent community review. The staff has reviewed Maplewood's Plan and found no conflicts or issues that affect North St. Paul.

Commissioner Gelbmann noted that one of the maps shows Maplewood including private property as park land near Joy Park. Planner Perdu stated that the map is not their Future Land Use Map, however, she will mention it to them.

Planner Perdu also indicated that the City of White Bear Lake has filed for an extension on their Comprehensive Plan.

IX. REPORTS FROM COMMISSIONERS

City Council Liaison, Tom Sonnek, commented on the need for better use of technology both in posting packets and agendas and having those things available during the meetings. He discussed the use of technology in the Council Chambers and larger screens. There is funding provided by the Cable Commission for new monitors, etc., however, that has been put on hold due to changes with the Director of the Cable Commission. Technology changes are something that the City hopes to see in the near future.

Liaison Sonnek also mentioned that the Lake Blvd. street project was approved by City Council. He also briefly mentioned the White Bear Lake versus Department of Natural Resources case has been put on hold for a year. This means that there are currently no watering bans for the City of North St. Paul.

He discussed the recent interest in the development of the City, and feels that the new City Manager has been instrumental in bringing in developers. Randy's Premier Pizza is adding another location. Randy will retain the location in Oakdale and add another location in North St. Paul.

Liaison Sonnek also mentioned that the Lifeguards at Silver Lake Beach will be active June 16, 2018 through August 19, 2018, and also, that Twin Cities Live will be at Neumann's Bar on Thursday, June 21, 2018 from 3:00 p.m. to 4:30 p.m.

He stated that the kick-off to the Car Show for this season started on June 1, 2018, and was estimated at approximately 10,000 people. Also, that Silver Lake Splash will be on a Saturday this year, rather than a Sunday; it will be held on Saturday, July 21, 2018.

Council Liaison Sonnek also mentioned that Christine Osorio, School District 622 Superintendent, was at the last City Council meeting and informed the Council that there will be improvements made to several of the local schools.

Commission Chair Barton inquired about the next Planning Commission Meeting being scheduled on July 5, 2018, and whether or not that date would work for everyone. She was hoping for a quorum at that meeting. Planner Perdu stated that there are items for discussion during the month of July, and that City Planner, Olivia Dorow Hovland, may be available for the July meeting.

Chair Barton also mentioned a flyer that was on the Community Development counter of City Hall, and wanted to inform every one of the event at the VFW being put on by Chef Shawn's BBQ. She encouraged everyone to go and also to stop at the Community Development counter for various events. Chef Shawn also participates in the Car Show event on Friday nights. She also mentioned that there is another meeting for the ADA Transition Plan for Public Right of Way on June 14, 2018, at 6:00 p.m. in City Hall.

X. ADJOURNMENT

There being no further business, motion to adjourn by Commissioner Worm, and seconded by Commissioner Gelbmann, with all present voting aye (6-0). Motion carried to adjourn the meeting at 8:41 p.m.

The next regularly scheduled Planning Commission Meeting is Thursday, July 5, 2018 at 6:15 p.m.

Members, please notify any planned absences to: Karin Derauf
Planning Commission Secretary
651-747-2400
karin.derauf@northstpaul.org