

**CITY OF NISSWA
MINUTES – REGULAR COUNCIL MEETING
TUESDAY, AUGUST 16, 2022
7:00 P.M. – NISSWA CITY HALL**

The Regularly Scheduled Nisswa City Council meeting was held Tuesday, August 16, 2022, at 7:00 p.m. at City Hall. This meeting was also available on *YouTube Live*.

Members present: John Ryan, Mark Froehle, Don Jacobson, Mark Utzinger, Jesse Zahn.

Members absent: none.

City staff present: Jenny Max, Kiki Lindbery, Bethany Soderlund, Amber Moon Peterson, Tom Blomer, Maggi Wentler.

Also Present: City Attorney-Tom Pearson; City Engineer-Joe Dubel; Echo Newspaper – Nancy Vogt

Audience members: 7 members of the public were present.

A. Call to Order – Mayor John Ryan called the meeting to order at 7:03PM. The pledge of allegiance was recited.

B. Approve Agenda – Motion by Jacobson, seconded by Froehle, to approve the amended Agenda for the August 16, 2022 City Council Meeting as presented. Motion carried unanimously.

C. Consent Calendar

1. Parks and Recreation Report – August 2022
2. Planning & Zoning Department Report – August 2022
3. Police Report – August 2022
4. Public Works Report – August 2022
5. Fire Department Report – July 2022
6. Spirits Reports
 - a. June 2022
 - b. July 2022
7. Presentation of Claims – Check register #50135; #50250-50353 totaling \$494,399.03
8. Regular City Council Meeting Minutes from July 19, 2022
9. City Council Workshop Minutes from July 19, 2022
10. Personnel Updates – August 2022

Motion by Jacobson, seconded by Zahn to approve the Consent Calendar as presented. Motion carried unanimously.

D. Open Forum:

1. Lakes Area Food Shelf – Tim Moore and Jean Kraft were present on behalf of the Lakes Area Food Shelf to personally thank the City of Nisswa for the recent donation to the Food Shelf of \$25,000.
2. Public Comment - Pam Dorion, representing the Nisswa Chamber and on behalf of the Brainerd Jaycees, requested that Council approve a request to apply for a Temporary Liquor License and Agreement for use during the Fall Festival to be held September 17, 2022. Max noted that the State Alcohol and Gambling Enforcement Division (AGED) requires approval through formal Motion by the City Council. Motion by Utzinger, seconded by Zahn to accept the Jaycees' request to submit application for a Temporary Liquor License Agreement for the Fall Festival to be held September 17, 2022, subject to all City and State requirements. Motion carried unanimously.

E. Reports:

1. City Administrator Report – August 2022 – Max referenced her monthly report and pointed out the letter from the POST Board regarding their recent compliance review of the Nisswa Police Department. This letter acknowledged the Department had passed the review and stated the Department should be recognized for this important accomplishment.

Max also noted in her report that the League of Minnesota Cities' Board of Directors has recognized two local Legislators as Legislators of Distinction – Josh Heintzeman and Carrie Ruud – and noted their significant or notable contributions on behalf of cities in the legislative process during the 2022 legislative session. Max expressed thanks to our local legislators for their efforts on behalf of our City and our community.

Max then acknowledged an employee anniversary for the City and presented a Certificate of Achievement and City 'years of service pin' to Public Works Director Tom Blomer for 15 years of continuous service to the City of Nisswa.

2. City Attorney – none presented.
3. City Engineer – none presented.

F. NEW BUSINESS:

1. Public Hearing – Ordinance Amendment – Moratorium re: THC Products – Max explained the information included in the meeting packet. Draft language for an Interim Emergency Ordinance is included in the packet, along with email feedback received from Nisswa business owners, in addition to articles and information regarding effects of THC products.

Max noted that she has spoken with a number of area City officials – Crosby, Pequot Lakes, Brainerd, Baxter, Breezy Point, East Gull Lake, and Lakeshore - regarding what they are planning do about THC sales and production; they are all planning to maintain a “wait and see” position in order to see what happens in the State Legislature regarding this subject. No other local municipalities plan to adopt a moratorium against sale and production at this time.

Motion by Jacobson, seconded by Zahn to open the Public Hearing at 7:18pm regarding potential Ordinance Amendment and moratorium regarding THC products within the City of Nisswa. Motion carried unanimously.

No Public Comment was presented.

Discussion commenced with each Council Member expressing individual opinions regarding this subject. Council Members agree that a moratorium is appropriate to prohibit the production and sale of THC products within the City of Nisswa until such time as the State determines clarifications, additional rules and/or regulations regarding the sale and production of THC products. Enforcement and licensing issues were discussed. Zahn noted that he would like to solicit more feedback from community members on his own and noted that he'd also like to hear Chief Taylor's opinion about this subject before allowing any sales or proposed licensing to occur. Mayor Ryan noted that the moratorium is not intended to prohibit the use of these products within the City of Nisswa, as it is now a legal substance in the State of Minnesota because of this new law. A moratorium will prohibit businesses from selling and/or producing this product within City limits. Discussion continued.

The City Council agreed that an ordinance to enact a moratorium for the sale/production of THC products in the City of Nisswa is warranted. This moratorium will be for a period of up to 1 year, though the moratorium can expire/end prior to the one-year mark should the state legislature modify the newly enacted legislation essentially by providing 'clean-up' language for the new regulations. The Council noted that the intent is not to prohibit the sale or production of these products for the long term; however, the Council agrees that it is important for the State to provide further clarification and guidance for local municipalities which will allow municipalities to set their own regulations. Jacobson reiterated that the moratorium does not prohibit the use or possession of these products as it is a legal substance; this proposed moratorium will prohibit the sale and production of THC products within Nisswa City limits.

Motion by Utzinger, seconded by Zahn to close the Public Hearing at 7:30PM. Motion carried unanimously.

Motion by Ryan, seconded by Jacobson to approve the Emergency Interim Ordinance Amendment for a Moratorium prohibiting the establishment of new uses or the expansion of existing uses relating to sales, testing, manufacturing, or distribution of THC Products within the City of Nisswa, for a period of up to twelve (12) months from the effective date of this Ordinance or until the Council repeals this Ordinance, whichever occurs first. Motion carried unanimously.

Motion by Ryan, seconded by Jacobson to publish the summary Ordinance in the local newspaper. Motion carried unanimously.

2. Special Event Permit Glen's Ice Cream / Northern Gifts - Car Show, Road Closure – Max noted that all pertinent Departments have reviewed and approved this application. Motion by Utzinger, seconded by Zahn to approve the Special Event Permit application for the "Sweets Ride-In Car Show" at Northern Gifts & Sweets to be held Sunday, August 21st, from 2-6pm. Motion carried unanimously.
3. Final Plat 019-22 - ¼ Mile Depot – Bethany Soderland read the request into the record and noted that the Planning Commission has recommended approval of this Final Plat. Condition #4 was revised from the Preliminary Plat Conditions per the recommendation of the City Attorney. Motion by Jacobson, seconded by Zahn to accept the recommendation of the Planning & Zoning Commission to approve Final Plat #019-22 – ¼ Mile Depot – with the amended Conditions and Findings of Fact as presented. Motion carried unanimously.

Conditions:

1. Except as amended by these conditions, the division of land shall be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots. Any changes will require amended recommendation by the Planning Commission and approval by City Council.
2. Ownership and long-term maintenance responsibilities for individual septic and water systems are the sole responsibility of the homeowner(s).
3. The developer shall pay a park dedication fee in the amount \$8274.24 (9 homes x 2.21 avg. household size x \$416) in accordance with Sec. 20-450.
4. Lower Cullen Road to be dedicated to the public.
5. Final Plat to be approved upon the completion of an independent plat check.
6. There is to be no on street parking.
7. All future dwellings are to be free standing with no shared walls.
8. There is to be no exterior storage including but not limited to golf carts, boats, and RVs unless in compliance with Sec. 20-530 of the City Code of Ordinances.
9. All local, state, and federal building codes must be met.

Findings of Fact:

1. The subject property is located at PIN 28020603 and is 10.6 acres.
2. The subject property is zoned "Shoreland Residential."
3. The proposed development consists of 9 single-family residential building sites with outlots.
4. The proposed residential lots are between 29,706 sf. and 78,865.5 sf. lot areas with the required exclusions set forth in Sec. 20-444, and meet minimum lot size requirements of 20,000 sq. ft.
5. All setbacks will be able to be met with the proposed layout. No variances are requested.
6. The division of land utilizes existing streets to serve all parcels. No new streets are proposed.
7. The development will be served by privately owned individual wells and septic systems.
8. The use and enjoyment of other property in the immediate vicinity of the subject property will not be impaired. The surrounding uses include residential dwellings.
9. The proposed development will not impede the normal and orderly development of surrounding vacant property.
10. The division of land will not generate public nuisances such as offensive odor, fumes, dust, noise, vibration. If development contains street lights or other lighting it must be in compliance with Sec. 20-177 of the City Code.
11. The division of land will not depreciate property values within the immediate vicinity.
12. The development will not cause the Local, County and State road systems to exceed their safe carrying capacity.
13. A site visit conducted by Meister Environmental, LLC on April 24th, 2021, verified that there are no wetlands present on the site.
14. There are no non-conforming structures on the subject property.
15. Lot areas and dimensions are consistent with the zoning ordinance requirements.
16. Lot layouts are compatible with the existing layout of adjoining properties.
17. All of the lots may be developed with single family homes without requiring variances.
18. Dedication to the Public Standards: The park dedication fee will be \$8274.24 and is to be paid prior to a Land Use Permit being issued.

4. Recycling Center Direction – Tom Blomer noted the recommendation from the Public Works Committee for the record and requested Council approval for the following items suggested as staff direction with respect to the recycling center project:
 - a. Have Jenny write the necessary letters to request from the DNR and National Park Service the ability to use the park land for expansion of the recycling site.
 - b. Have staff get the necessary signage and barricades to block off the Fire Hall site for fire training when necessary.
 - c. Have staff prepare ordinance language to require haulers provide curbside recycling as part of their service at no extra charge within the city limits.
 - d. Have staff identify possible alternative downtown sites for a new recycling center if expansion can't occur on the adjoining property at the existing site.

Discussion commenced. Potential property size needs, buildable lot potential, and high property costs were concerns of the Council. Blomer noted that any property that is purchased must be large enough to allow for future expansion. Zahn noted safety concerns specifically for the Fire Department, and he hopes that this recycling center discussion can become part of a future downtown master plan study. Jacobson noted he'd like to see a long-term contract with Crow Wing County for financial support of recycling. Utzinger noted that this subject will come up again in the future, and he hopes that we might be more prepared with a plan to move forward when that time comes. Signage, blockades, and fencing are only temporary solutions for some of the safety concerns. Ordinance changes for required curb-side pick-up may help to minimize the usage of the existing recycling drop-off site, though doing this will also bring concerns about accessibility and increased truck traffic on City streets. Use of the existing site continues to grow, and that growth will likely continue in the future even with required curb-side pick-up for residents. Blomer noted that the recycling issue will likely continue to be a problem at the existing location in the future as the site is over-capacity most of the time. Barricades, signage, and fencing will be a costly addition; continued discussed will be necessary. Motion by Utzinger, seconded by Zahn to accept the recommendation of the Public Works Committee regarding staff direction with respect to the recycling center project as presented. Motion carried unanimously.

Mayor Ryan noted for the record that he has watched the Public Works Meetings videos online, and believes that some Public Comments during these meetings have been unwarranted, unnecessary, and rude to staff and Committee members at times. Ryan requested that members of the Public please use decorum and tact during these meetings; staff does the work that the Council has asked them to do, and they are the messengers of the information. Verbal abuse and insulting staff and committee members cannot be tolerated.

5. Updated Emergency Management Plan – Policy and Resolution – Jacobson made note that a correction to language is needed on page 13, item II., B., with respect to air ambulance hours of operation. Motion by Utzinger, seconded by Froehle to approve the updated Emergency Management Plan and Resolution as presented with the correction to page 13, item II., B., with respect to air ambulance hours of operation. Motion carried unanimously.
6. Police Squad Car Purchase Pre-Order 2023 – this Agenda item was briefly discussed during the Budget Workshop earlier this evening. The Police Department is still awaiting the squad car that was ordered last year for 2022, and they would like to request permission to order the budgeted 2023 squad car now to avoid additional delays from the manufacturers/producers. Motion by Jacobson, seconded by Utzinger to approve the request to pre-order and purchase the budgeted 2023 Police Squad as presented, at a not-to-exceed cost of \$56,000, which includes the vehicle and rigging costs. Motion carried unanimously.
7. Policy Update – FBI CJDN Security Incident Response as required by the BCA – Taylor noted a correction that this update is not a POST Board requirement, but it is a required BCA Policy which involves Officer training. The TAC coordinator told Taylor that this required policy needs to be instituted as soon as possible. Motion by Ryan, seconded by Utzinger to approve the FBI CJDN Incident Response Policy as presented. Motion carried unanimously.
8. F450 Truck Purchase - Public Works Department – Blomer noted that this was a budgeted item in 2021 that was carried over and has not yet been purchased. The ordering window for manufacturers is opening soon and department would like to order the budgeted truck now to avoid additional delays from the manufacturers/producers. The request is to order and purchase this truck for the department with a potential 25% inflation accommodation over the original 2021 budgeted estimated cost. Motion by Zahn, seconded by Utzinger to approve the request to order and purchase an F-450 truck for the Public Works Department as presented at a not-to-exceed cost of \$96,621. Motion carried unanimously.

9. Parks & Recreation Request– Community Center Furnace and A/C – Moon Peterson noted that this item was included in the Parks & Recreation Capital Improvement Plan in the budget this year. Utzinger inquired about the age of the existing system. Moon Peterson noted that the existing system is nearly 20 years old and past its life expectancy; this is the last of the four air conditioning units in the system to be replaced. The existing furnace is also believed to be the original one installed when the building was constructed. Motion by Utzinger, seconded by Zahn to approve the quote from Climate Makers in the amount of \$14,908 for the purchase of a new furnace and air conditioning unit for the Community Center. Motion carried unanimously.
10. Approve Widseth Quote re: Roundabout Re-Design Work – Max explained that a redesign of the roundabout proposed at the County Road 77 and Grand View Lodge entrance is necessary to meet the needs of Grand View and keep the project moving forward and on schedule. Ryan noted concerns about the continued design change requests from Grand View. Max noted that there is a meeting scheduled with Grand View to corroborate and accept the proposed final design changes. Dubel noted that timeline is still under review and more information will be provided to the Council at a future date. The County has opted to overlay/repave County Road 77 in conjunction with this project. Additional costs for the redesign amount to \$22,980. Motion by Zahn, seconded by Froehle to accept the proposal from Widseth for the redesign of the roundabout as presented at a not-to-exceed cost of \$22,980. Motion carried unanimously.
11. Approve 2022 Road Repairs – Anderson Brothers Quote – this is a late addition to the Agenda as Blomer just recently received the quote from Anderson Brothers for 2022 road repairs. Marking potential repair areas on City streets was delayed due to time constraints and staffing shortage. This budget line item for 2022 is \$27,000 under budget projection and the department would like to see the repair work done as soon as possible this fall. Prices will increase for 2023 road repair estimates. Motion by Utzinger seconded by Zahn to accept the quote from Anderson Brothers for 2022 road repairs not to exceed \$80,232 as presented. Motion carried unanimously.

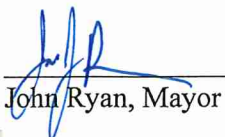
G. OLD BUSINESS – none.

H. COUNCIL REPORTS

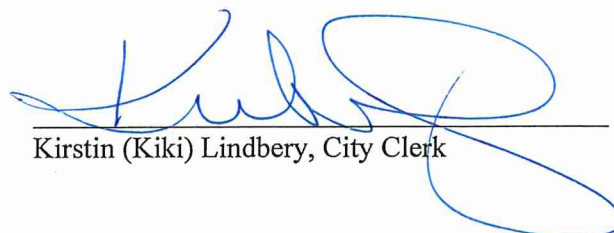
1. Mayor – Ryan reiterated and asked that the Public maintain decorum and tact when addressing Committee, Commission, or Council Members at Public Meetings; insults, theatrics and verbal abuse are unnecessary and will not be tolerated.
2. Council Members – none presented.

ADJOURN – Motion by Froehle, seconded by Utzinger to adjourn the Regular City Council meeting at 8:04PM. Motion carried unanimously.

Respectfully Submitted,



John Ryan, Mayor



Kirstin (Kiki) Lindbery, City Clerk