

**THE REGULAR MEETING OF THE PLANNING COMMISSION BOARD HELD ON  
SEPTEMBER 19, 2011, AT 7:00 P.M., AT THE CITY HALL CHAMBERS**

\*\*\*\*\*

The meeting was called to order at 7:00 P.M., by Dave Thompson. Members present were Jack Edmonds, Ben Hanson, Mitzi Mellott, and Dick Dobson. Township members present were Jim Kusler (Princeton Twsp.) and Randy Atwood (Baldwin Twsp.) Staff present were Carie Fuhrman and Mary Lou DeWitt.

**APPROVAL OF MINUTES OF REGULAR MEETING ON AUGUST 15, 2011**

HANSON MOVED, SECOND BY DOBSON, TO APPROVE THE MINUTES OF AUGUST 15, 2011. UPON THE VOTE, THERE WERE 5 NAYS, 0 NAYS. MOTION CARRIED.

**PUBLIC HEARING:**

**A. #08-11 Vacation of a Portion of 7<sup>th</sup> Street North**

(Public Hearing was continued from August 15, 2011 Meeting)

Fuhrman informed the Planning Commission Board that Paul and Martina Snow have submitted as application to vacate a portion of 7<sup>th</sup> Street North between Lot 1, Block 43 and Lot 6, Block 42, Original Townsite and between Lot 1, Block 44 and Lot 6, Block 41, Original Townsite. The applicants live at 402 7<sup>th</sup> Street North.

The vacation request involves only the street right-of-way; the City would retain utility easement over, above, and below the vacated property for the maintenance and installation of any public utility.

The vacation request was original brought before the Planning Commission at their August 15, 2011 meeting. The public hearing was continued until the September meeting in order for staff to conduct additional research regarding the requested right-of-way vacation.

The following information is being provided in response to the comments received at the August Planning Commission meeting, and in order to provide additional information in general:

Public Works Director Comments: Concerns were raised at the August Planning Commission meeting regarding snow plowing along 7<sup>th</sup> Street North. According to the Public Works Director, the Public Works Department currently plows 7<sup>th</sup> Street North up to the alley. The City does not plow beyond that because the Snows have placed private signs along the right-of-way, preventing snow plows from accessing the rest of the right-of-way. If the right-of-way is vacated, the City would continue snow plowing as they have been. If the right-of-way is not vacated, and the Snows remove the signs, the City could plow to the end of the right-of-way.

City Administrator Comments: The City Administrator sent an e-mail to the Planning Commission on August 31, 2011 stating: At last Thursday's City Council meeting, the Council unanimously adopted the attached policy regarding the vacating of city property. As you consider current and future requests, you may want to use the attached in your decision making process.

Staff's concerns regarding the current request from Mr. Snow include the fact that the proposed vacation would limit access to Pioneer Park. At some point in the future, the city may need to

access part of Pioneer Park for maintenance or other reasons. Vacating that ROW would prevent the city from doing that.

I've discussed the proposed vacating with the City's Public Works Director and he is not in favor of vacating any of the city rights regarding that street. He cites concerns about snow removal, utility access, the ability to monitor and correct bank erosion and other issues.

I think it's safe to say that, at some point in the future, city sewer and water will extended eastwardly under the Rum River to Mille Lacs County Road 1. The existing sewer and water stubs at 7<sup>th</sup> will be one option for making that connection. Since it's one of the options that would provide the shortest distance to CSAH1, it may be the preferred option. That option should not be taken off the table.

The policy regarding public right-of-way vacations was adopted by the City Council on August 25, 2011. The policy states that a public right-of-way shall not be vacated unless it is shown that there is not present or prospective use for the right-of-way, either for the purpose for which it was originally acquired or for any other public use that can be anticipated. In addition, proposed vacations may be approved only when they provide a long-term benefit to the general public. Vacations will not be approved to achieve short-term benefits or for the sole benefit of individuals.

City Attorney comments: Discussion regarding access to Pioneer Park was raised at the August Planning Commission, in particular, regarding whether or not an easement would be required to be obtained from the Snow's in order to access Pioneer Park over the previously-vacated right-of-way of 4<sup>th</sup> Avenue North if an access were ever improved on 7<sup>th</sup> Street North.

The City Attorney addresses this topic in a memo dated September 14, 2011. Fuhrman included the memo in the Planning Commission packet, and gave an overview of it. According to the City Attorney, back in 2004 and 2005 when portions of 4<sup>th</sup> Avenue North were vacated, the intersection of 7<sup>th</sup> Street North and 4<sup>th</sup> Avenue North was not vacated; therefore, 7<sup>th</sup> Street North does presently provide access to Pioneer Park.

The City Attorney cites Minnesota Statute and various court cases that have addressed vacation requests. According to the City Attorney, previous court cases have held that a vacation is not authorized when vacating a street benefits only those owning property abutting the street. The fact that access to public property is available at some other point does not justify vacation of a street abutting public property where no public benefit is otherwise shown.

The City Attorney's memo addresses that the Supreme Court has also held that where a platted street leads to public property, it is presumed that the street was intended to provide access to the public property for all legal public purposes. Whether the street has been graded or improved does not bear on the question of whether it is in the public interest to vacate it.

Lastly, the City Attorney addresses the Right-of-Way Vacating Policy recently adopted by the City Council. According to the City Attorney, the policy should be viewed as an aid to defining

the public interest and not as setting a new standard for street vacations. The standard for vacating a street is set by statute and interpreted by the Appellate Courts.

Mike Nielson, WSB City Engineer, was present and went over the memo he prepared for the Planning Commission Board. The memo dated September 19, 2011, states that at the August Planning Commission meeting the Commission requested additional information regarding the cost to make improvements to 7<sup>th</sup> Street North to satisfy the concerns the Snow's have with the road leading into their property.

The issues the Snow's have include; Drainage, Erosion, Condition of the Street, Snow Plowing, and Assessments. Nielson attached a plan showing two phases of a project that include the full reconstruction of 7<sup>th</sup> Street North from 5<sup>th</sup> Avenue to the dead end.

Option 1 Reconstruct the Road Full Length: The first cost estimate includes all of the improvements in what is shown as Part 1 and Part 2. The improvements include removing the existing bituminous, grading the roadway to improve drainage, installing a catch basin and storm sewer and providing concrete driveway aprons at all three parcels along the roadway. This would require the road to have the high point located at the north side with drainage running to the south side. The curb & gutter would eliminate the water running over the steep bank and causing erosion. The purpose of ending the curb where it is shown is to allow the City to push snow past the end of the roadway.

The layout Nielson shown in his memo addresses drainage, erosion, street improvement and snow plowing and access to maintain the Sanitary Sewer and Watermain. In accordance with the City of Princeton assessment policy a project of this type would be assessed based on the adjusted front foot method. The Adjusted Front Foot method allows for credits for corner lots which would apply to two of the three parcels receiving benefits. The Snow property would be assessed based on the frontage for both parcels 24-040-1590 and 24-040-1485, however the second parcel is unbuildable and therefore the footage for this parcel has not been included in the calculations.

The Assessment Policy states that for street reconstruction;

1. Property owners shall pay costs of street grading and base construction at percentage identified by the Council, but in no case shall assessment be less than 50% of the costs. The actual % to be determined by the Council.
2. Property Owners shall pay for all costs of concrete curb and gutter.

Option 2 – Reconstruct from the Alley to the East: The second cost estimate is for the work that only would benefit the Snow property. This work includes installing curb & gutter, storm sewer, bituminous surfacing and a concrete driveway approach into the Snow parcel. The cost for this option is approximately \$20,549.12. Some savings may be obtained if the Snow's complete their own driveway approach. The storm sewer portion of this option would be split proportionally between all benefitting properties based on contributing area. This amount is \$7,072.96.

These cost estimates have been done without the aid of any survey data and are for discussion

purposes only. If the property owners wish to move forward with any of these improvements a more detailed opinion of probable cost and feasibility report will have to be prepared. Also not taken into consideration were the condition of the sewer and watermain piping. If a new roadway is to be constructed over these utilities a thorough review will have to be done to determine their condition.

Nielson attached a figure showing the proposed improvements and estimates of cost for both options. The City Council at its discretion would have the option to reduce the assessment for the roadway improvements.

Right-of-Way Vacation: Mr. Snow has requested that the Public ROW be vacated adjacent to his parcel. Nielson's recommendation is to not vacate the ROW at this time.

Work Within the ROW: Mr. Snow has placed fill within the City ROW in an effort to stabilize the bank adjacent to the ROW. This work was not permitted and has not been done to what I would consider proper engineering standards. The fill slope placed by Mr. Snow is as steep at 1:1.6. The normal standard for fill slopes would be 1:2.5 or 1:3.

Neilson gave three options to dealing with this unauthorized work within the public ROW.

1. Require Mr. Snow to remove the fill material and return it to its natural condition.
2. Require Mr. Snow to make application for work within the public ROW and as a condition of the permit require him to flatten the slope to 1:2.5 or flatter.
3. Require Mr. Snow to hire a qualified soils engineer to evaluate the existing fill material to determine if the present slope is considered stable. If the determination is that the fill slope will be stable require Mr. Snow to apply for an after the fact permit and include the conditions that he or any future property owner will be solely responsible for any repair or maintenance for the integrity of the slopes constructed. Neilson would also recommend a signed agreement to waive his rights to appeal an assessment for such repair by the City if he fails to do the work.

Nielson said that the existing sewer pipe should be televised for necessary repairs or replacement before doing any work on the street. The Snow's could petition for improvements of the roadway. If the entire street were repaved it should be where the maintenance vehicles could snow plow. Nielson said they would locate a low point of the road and have the discharge go over the bank. There would not be a lot of runoff from 5<sup>th</sup> Street. This is a separate subject from the right-of-way vacation.

Edmonds asked on the water run off to the river area would there be phosphorous credits.

Nielson said the erosion would not be at enough of a magnitude for much credits. To get the credits there would have to be an approved stabilization program. The major erosion occurs along the river bank. They would want the funds to go to that area first.

Paul Snow applicant, asked Nielson to explain the picture he had provided. After reviewing the photo, Snow asked Nielson if they plowed the snow and were to push it over the bank, would that not cause more erosion of the bank.

Nielson said the only other option for snow removal would be to haul it.

Snow said that is what they should be doing. Snow commented that he fixed the runoff by different means. If a storm drain were to be put in and then the snow is pushed in the same location, is that not defeating the cities remedy for the erosion issue.

Nielson said the ground is frozen so erosion should not happen, only when it is thawed.

Snow said the river is two blocks away and believes this storm drain defeats the purpose for erosion. Pushing snow that is mixed with gas and other chemicals from the streets does not seem like the correct solution.

Fuhrman said the meeting tonight is to address the street vacation. Maintaining it would be another item.

Thompson said the item on tonight's agenda is the vacation of the street. This has to be a benefit for the public, not just the property owners. What has happened on the street can not play a part of vacating the street.

Paul Snow asked Fuhrman about the City Attorney's memo regarding 7<sup>th</sup> Street North intersection. The memo reads that no part of 4<sup>th</sup> Avenue north lying within the intersection of 4<sup>th</sup> Avenue North and 7<sup>th</sup> Street North is described in the resolution, that he can only conclude no part of 7<sup>th</sup> Street was previously vacated at this location. 7<sup>th</sup> Street North presently provides access to Pioneer Park, a publicly owned facility. He does not agree with the City Attorney's interpretation.

Fuhrman said the resolution is not stating the intersection of 7<sup>th</sup> Street North.

Thompson said that 7<sup>th</sup> Street North intersection is not included in the past vacation.

Martina Snow applicant read it and said that it could be looked at either way.

Thompson read on both vacation resolutions of where the vacation had been done and said it is within the area, but does not include the street.

Martina Snow interprets it differently than Thompson.

**DOBSON MOVED, SECOND BY HANSON, TO CLOSE THE PUBLIC HEARING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.**

Dobson said he does not see how this would help all the citizens of Princeton, instead would only be helpful to the homeowner. The City may need that road in the future for maintenance and installation of any public utility.

Edmonds said the Planning Commission needs to view this vacation request as an aid to public interest and this vacation would only benefit the homeowner.

Thompson agrees that there is nothing in this vacation request that meets the standard for vacating a street by state statute.

Edmonds would like the City to work with the Snow's to address the problem of erosion there.

Hanson agreed that this vacation request does not meet the state statute guidelines.

Thompson said that he has visited the site and the erosion issue needs to be addressed.

Mellott commented that Snow's have put a lot of time and effort in what the City should have done. It might not have been to the cities standards, but they have tried to correct the erosion problem.

Dobson agrees that something has to be done with the erosion issue and he will speak to City Staff and the City Council on this. Tonight is the request for a portion of 7<sup>th</sup> Street North to be vacated. This vacation request does not meet state statute guidelines.

HANSON MOVED, SECOND BY DOBSON, TO DENY ITEM #08-11 TO VACATE A PORTION OF THE RIGHT-OF-WAY OF 7<sup>TH</sup> STREET NORTH BETWEEN LOT 1, BLOCK 43 AND LOT 6, BLOCK 42, ORIGINAL TOWNSITE AND BETWEEN LOT 1, BLOCK 44 AND LOT 6, BLOCK 41, ORIGINAL TOWNSITE. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

The Planning Commission Board reviewed the Findings of Fact:

1. Will the vacation of the easement reduce the access to adjoining property to the extent it will cause damage to their property? Yes. Limit access to City Park property.
2. Will the vacation cause problems to the surrounding neighborhood in the form of parking or increased traffic generation? No.
3. What if any impact be against the City in regard to maintenance and access to public utilities be? Yes. Access to Park and also access to water facilities within vacation area.

The Commission recommends denial of the Vacation Application based on the Findings of Fact and that the vacation request does not meet state statute guidelines.

**B. Zoning Ordinance Amendment: Crushed Material as in IUP in the B-3 District**

(Public Hearing was continued from August 15, 2011 Meeting)

Fuhrman said the proposed Ordinance amends the Zoning Ordinance by adding the outdoor storage of approved material, such as sand, gravel, fill dirt, or crushed material, as an Interim Use Permit (IUP) in the B-3 General Commercial District, provided certain conditions are met.

The ordinance amendment was brought to the Planning Commission at their August meeting. At that time, the Planning Commission asked staff to research additional language to add to the ordinance that would essentially limit the outdoor storage of material to instances when it would be used for an adjacent project use.

The City Attorney suggested not utilizing the term “adjacent,” but instead requiring the applicant to identify the future project and site location where the material is going to be used, subject to the approval of the Planning Commission.

Fuhrman said she has added the changes the Planning Commission Board recommended. She spoke with the City Attorney regarding the height requirement and also added no hazardous materials shall be allowed to be stored.

Dobson wants the wording that temporary fencing is required around the material storage area.

DOBSON MOVED, SECOND BY HANSON TO RECOMMEND APPROVAL TO THE CITY COUNCIL FOR AN ORDINANCE AMENDING CHAPTER V (ZONING DISTRICT) OF TITLE 11 (ZONING) OF THE PRINCETON CODE OF ORDINANCE IN ORDER TO ADD THE OUTDOOR STORAGE OF APPROVED MATERIAL, SUCH AS SAND, GRAVEL, FILL DIRT, OR CRUSHED MATERIAL, AS AN INTERIM USE PERMIT IN THE B-3 (GENERAL COMMERCIAL) ZONING DISTRICT, PROVIDED A NUMBER OF CONDITIONS ARE MET, WITH THE ADDITIONAL WORDING THAT TEMPORARY FENCING SHALL BE MET. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. MOTION CARRIED.

**OLD BUSINESS:** None

**NEW BUSINESS:**

**A. Temporary Signage Ordinance Amendment – Discussion**

Fuhrman informed the Planning Commission Board that at the June and July Planning Commission meetings, the Planning Commission briefly discussed the temporary signage regulations in the Zoning Ordinance. The issue was raised per a request from a property owner. There are many examples of temporary signs that are placed on properties throughout the City. Fuhrman provided a couple photos of such signs.

The existing Sign Ordinance defines temporary signs as a sign not constructed or intended for long-term use. Such a sign is intended for special events. The current Ordinance does not address these specific types of temporary signs; therefore, they are technically not allowed. Because these signs have been appearing throughout the City and staff has received inquiries, Fuhrman felt it was important to bring before the Planning Commission for discussion. At the July Planning Commission meeting, the Planning Commission directed staff to research temporary sign regulations and bring information back to the September meeting. Fuhrman had

provided the City of Albertville Temporary Sign regulations, City of Lakeville's, and City of St. Francis to the Planning Commission to review. The Planning Commission may want to utilize some of their language as something to base any proposed language off of.

Hanson is in favor of the temporary signs with a time frame of maybe 90 days. Signs that have been used for the Chili Fest and Flying Bruch Breakfast have been placed on business properties with their approval. Other signage has been where the business itself is advertising on their property. Either way there should be a site location and a time period on the permit.

Dobson agreed and would like a size requirement of the signage. If it were in the commercial area, he would not want traffic to be disturbed.

Hanson commented that he would like a professional sign and not a homemade sign where it has a nice appearance. Not just a piece of plywood spray painted.

Thompson believes there are some businesses that are going beyond an appropriate time period.

Edmonds suggested the signage is restricted to events only and not for long term advertising.

Thompson said that having a permanent sign would work better for businesses that they change out their specials for advertising instead of the temporary signage.

Mellott agrees. She does not like where businesses have a sign for long term advertising on their specials. She does not like the idea of having a fee for temporary signs.

Dobson believes there should be a fee for the signage. It takes staff time to review the sign request.

Fuhrman would like that we have a date of when the sign is put out for display. The permit would show it. Language could be put together and fee amount.

Hanson asked what size of sign should be allowed.

Thompson would like the ordinance to state a number of days and a number of times a year the party could have a temporary sign.

Dobson said a set time period would be best. The purpose for signs is to get the public's attention. If an advertising sign is displayed for a long period of time, you over look it.

Fuhrman suggested 14 calendar days for the time period of being up and no more than four times of year.

Thompson said it could also say two consecutive times so the event has a long enough time to draw attention.

Hanson said there could be wording of the number of days before the event for having the sign displayed.

Dobson wants wording of the location of the sign so it is away from road right-of-way.

Fuhrman said Albertville's ordinance states ten feet from the property lines and not in the right-of-way. The requirement for sandwich signs states not in the right-of-way and requires a permit.

Hanson likes Albertville's example, but change the time frame.

Fuhrman asked if they are okay with using Albertville's wording and if so, she would bring the Ordinance amendment back for public hearing next month. The amendment would state a permit is required along with a set fee.

Hanson said he would like the Ordinance to state ten days before the event the sign could be displayed and only allowed for 14 days.

Thompson said anchors are required for the signs in case of winds and the site location has to be on the permit.

Fuhrman will put together an Ordinance amendment like that of Albertville's requirements. It will state not in the right-of-way and no setbacks.

Nielson suggested zero setbacks unless it does not cause a visible obstruction. The Planning Commission liked that suggestion.

Fuhrman said there could be a requirement of having the signage 100 feet apart from another sign.

Hanson suggested that no more than one sign per lot.

Fuhrman will put one sign per property and remove the 100 feet apart from another sign. She will have the Temporary Sign Ordinance Amendment published for the October 17, 2011 meeting.

## **COMMUNICATION AND REPORTS:**

### **A. Verbal Report**

Thompson said that United States Distilled Products Variance and Site Plan were approved at a special meeting on August 1, 2011. Since then the Princeton Public Utilities has had an issue of the hydrant along 17<sup>th</sup> Avenue South. He believes the hydrant should be abandoned. The utilities would have no awareness if this hydrant were to be used and it is not needed there. It was overlooked at the Site Plan Review.

Fuhrman said she will speak to the City Attorney and see about putting this in the Developer's Agreement.

Nielson missed that and agrees it could be administratively worked out.

Fuhrman will talk to City Attorney if this can be added to the Developer's Agreement or if this needs to come back to the Planning Commission. She will let the Planning Commission know at the next meeting.

Neilson suggested putting it in the plat that will be recorded.

Fuhrman wanted to inform the Planning Commission that there was a fence constructed by a property owner that is in the right-of-way. They had taken out a fence permit and it was approved by the Building Inspector. The City has been addressing the issue and trying to find a workable solution. The City Attorney is suggesting enforcement on this and Fuhrman will be bringing this to the City Council for their direction. She wanted to inform the Planning Commission because the property owners may be requesting a variance.

Hanson told Fuhrman there is possibly another fence that could have been put in the right-of-way. She will get the address from him and go look at it.

Thompson said the well head protection plan is moving ahead and making progress.

**B. City Council Minutes for August, 2011**

The Planning Commission Board had no comments.

MELLOTT MOVED, SECOND BY DOBSON, TO ADJOURN THE MEETING. UPON THE VOTE, THERE WERE 5 AYES, 0 NAYS. THE MEETING ADJOURNED AT 8:44 P.M.

ATTEST:

---

Dave Thompson, Chairperson

---

Mary Lou DeWitt, Comm. Dev. Assistant