

## CITY OF MARINE ON ST. CROIX CITY COUNCIL MEETING

Thursday, August 10, 2023

The meeting was called to order by Mayor Nyenhuis at 7:00pm. Nyenhuis, Pardun, Ward, Anderson (zoom) and Miller present.

Citizens: Glen Mills, Scott/Jeanne Spisak, Calissa Hall, Gwen/Larry Roden, Ryan Goodman, Mark Kraske, Jim Maher, Kitzie Vadheim, John Goodfellow, Annie/Christian Minich, Mary Burke, Dana Anderson, Stacia Rivers, Charlotte Wilcox, Carissa Roach, Jeremy Morris, Anna Hagstrom, Christian/Annie Minich, Ross Higgins, Kristina Smitten, Marsha Carlisle, Allison Ogren, Cheryl Johnson, Maria Guzman, Jeannie Davis, Jenn Cress, Dorothy Deetz, Julie Warren, Laurie Schmidt, Sue Knapp, Dave Sours, Kristina/Bill Smitten.

Approval of the Agenda – Ward requested to remove the Red Bridge item until September. Ward moved and Pardun seconded to approve the agenda as amended. All in favor, motion passed.

Citizens Considerations –

Christian/Annie Minich - Christian and Annie Minich, 280 Cherry Street, received a letter of violation from the City back in May. The letter stated that there were two large class 5 gravel parking pads that had been constructed on the property along with the storage of commercial equipment outside. The Minich's had received a variance back in 2017 for a driveway setback. During that variance process, the Planning Commission had determined that in order to meet the 20% impervious surface requirement for their lot, the size of the garage could be 720 sq. ft, with the driveway measuring 575 sq. ft. Those combined with the home would equal the maximum 2,355 sq ft of impervious surface allowed. After Mr. Minich received the first violation letter, he sent the City and Watershed District a proposal for removing a portion of the impervious surface. After a site visit by the Watershed District, the City was notified that along with the class 5 parking pads, there were additional items in violation which included a retaining wall, patio, fire pit and significantly larger driveway than what was approved. In addition, Mr. Minich applied for a building permit for the garage at approved size of 720 but constructed a building that was 832 sq. ft.

Mr. Minich was sent a second letter stating the commercial equipment needed to be screened or stored inside of a building and all impervious surface added above what was approved with the 2017 variance be eliminated and returned to its natural state. The City Attorney has also recommended that the overage of 112 sq ft from the garage size be rectified by reducing the total square footage of either the house, garage or driveway as well.

Annie Minich stated she and her husband Christian were surprised to receive the violation letters. She stated they did not realize their garage was too large and did not realize that commercial vehicles and equipment were not allowed to be parked outside on the property. Christian stated he built the garage himself and isn't sure how the size increased. He said he rented a mini excavator to dig the footings and he poured the footings to make it square and somehow it came out bigger than the initial drawing. He will be working with the Watershed on the stormwater issues as well. He stated the Watershed is on board with the use of PCIP pavers for stormwater mitigation and if the City agrees, then he will return the remaining areas to grass and wild flowers.

Mayor Nyenhuis stated there are two entities that have brought forth concerns, the Watershed

District and the City of Marine and both have different sets of rules. The Council needs to act based upon the proposal that was brought forth to them and how it relates to the City ordinances and noted the Watershed rules should be dealt with the Watershed Board. The Minich's brought forth their request to the Planning Commission back in 2017 and at that time they were very clear that there is a rule of 20% impervious surface that applied to their property. The Council needs to act based upon those ordinances and legal advice and not on how much they like the person(s) bringing forth the issue. Miller reviewed the variance process that was brought forth and approved by the City. The City also approved a conditional use permit for a bathroom that is now not in compliance due to the garage size, and will need to be reviewed as well. He agreed with Mayor Nyenhuis that the Council needs to follow legal advice in order to bring the property back into compliance. Pardun believes the City Attorney has laid out a plan to get the property into compliance with the variance, which the Minich's agreed to back in 2017 and he believes the Council needs to follow that plan. Ward works closely with the Watershed and is a member of the Lower St. Croix Partnership Team and believes the rules are in place to protect the river and also believes that when the variance was granted, the Minich's were aware of what the impervious surface requirements were. Anderson believes he as a Council member needs to make decisions on Council that can sometimes hurt relationships, however he also believes that the Council needs to follow the City Attorney's recommendations and uphold the ordinances.

Mayor Nyenhuis then reviewed the timeline of the letter and read the recommendation from the City Attorney. A 60-day timeline was also suggested to have the restoration complete.

Charlotte Wilcox, 361 Third Street, believes that everything the Minich's have done to their property has increased the value of the properties around them and are superior residents of the town.

Stacia Rivers, 330 Second Street, supports the Minich's and their request. She believes there is a subculture of lawlessness when it comes to the impervious surface. She questioned why the Council can't assess a fine rather than removal of the impervious surface. Miller stated that during the 23 years of service to the City, he has never seen a situation resolved by just paying a fine. He does not want the Council to be known as the body who lets the rules slide as long as someone writes a check. There was a lot of time and energy put into the variance granted in 2017 and he believes the variance needs to be upheld. Discussion was held as to whether the measurements taken by the Watershed District of the impervious surface are correct to determine the overage of impervious surface. Mayor Nyenhuis stated the Minich's had opportunity to come forward to the City to dispute the numbers presented and that was not done.

John Gyllen, 413 Moody Rd, St. Croix Falls, is Annie Minich's father and requested clarification on the attorney's recommendation. Clerk Peterson stated the approved variance allowed for a 720 sq ft garage and a 575 sq ft driveway. All impervious surface added outside of what was approved for the garage and driveway, must be removed plus an additional 112 sq ft of impervious surface to compensate for the larger garage. If that is taken from the driveway, the total size of the driveway will need to be 463 sq ft.

Sue Knapp, 360 Third Street, believes if the Watershed has inaccurate information on the measurement numbers, then those should be assessed prior to making a decision. She would also like to see the City support the Minich's small business and to allow them a longer period of time to get the work done. Clerk Peterson reiterated that the overall measurements from the Watershed were strictly listed as a reference and would not change the decision of the Council because everything that was added after the variance approval, regardless of the size, is a violation.

Sebastion Corbie, 16060 St. Croix Trail, questioned if there had been inspections on the garage along the way. There were inspections, however the building inspector does not measure the building as it is being built. He believes that since the City did not realize the violation until now, there is lack of accountability on the City's end.

Eric Doyle, 145 Egret Lane, realizes that the Council needs to respect legal counsel and would like to see the City Council grant a 60-day timeline to counter the recommendation by the Attorney.

Laurie Schmidt, 200 Third Street, strongly encourages the Council not to pass a motion and rely on the Watershed's numbers if they are not correct. The Council advised that the overall numbers are not the issue. Any impervious on the property above what was listed and approved in the 2017 variance is a violation. A question was raised as to what is considered impervious surface. Mr. Minich stated he used permeable pavers on the driveway and that the parking pads are constructed of sand and trap rock. Clerk Peterson advised she contacted the Watershed District and they consider permeable pavers to be impervious surface, however they will give a credit for stormwater runoff. As for the parking pads, she requested the building inspector visit the site and he stated they were constructed of Class 5 gravel. Mayor Nyenhuis stated the City relies on the Watershed and Building Inspector and has no reason to believe the information they provided is inaccurate. Mr. Minich also stated the parking pads are made of sand with some river rock but is not Class 5 gravel and he believes is pervious. The building inspector and public works dept. have both looked at the parking areas and agree that it is compacted gravel and not sand.

Discussion was held on the allowed timeline to rectify the violations. Pardun believes given the time of year, it will difficult to get everything done within 60 days. He also recognized that it is getting late in the year and then there are weight restrictions in the spring and therefore would like to see the deadline be June 1, 2024. Anderson supports Pardun's recommendation and if in the meantime, new information is received on the what is considered impervious surface then that be considered.

Mayor Nyenhuis moved and Ward seconded to accept the recommendation by the City Attorney as follows:

Remove all impervious surface not approved in the variance dated November 9, 2017, including the east and north parking pads, retaining wall, fire patios and PCIP patio.

Eliminate comparable amount of impervious surface created by the garage and driveway overages, no less than 705s sq. ft. from elsewhere on the property, i.e., house, garage or driveway.

Record a covenant on the property with Washington County stating the no additional impervious surface be built regardless of size and no structure currently existing on the property be enlarged or expanded. The timeline for the violation to be rectified no later than June 1, 2024.

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed.

Mary Burke – Ms. Burke, resident 18090 St. Croix Tr, is concerned that the property near her home on St. Croix Trail, owned by Jeremy and Heather Morris, was granted a special event permit by the City for two “for profit” concerts at their home. She does not believe that the approval of an indoor concert meets the ordinance requirements as there are safety, parking and fire hazard issues that should be addressed.

Mayor Nyenhuis clarified that the City received an application for sound amplification for a house concert, which falls within the special event ordinance. He does not believe there is any blatant disregard for the ordinance by the City or homeowner, but rather is an opportunity to bring the community together for an event.

Anderson reiterated that the application was for amplification. The City also addressed parking, neighbor notification, etc. as part of the approval process. He believes this may an opportunity for the Council to review these types of for-profit activities in the future and regulate the number allowed. Pardun agreed that moving forward this should be a public discussion regarding the number of events to allow per household per year.

Planning Commission – Chairman Spisak reviewed the July meeting. There was a pre-application for a bathroom in accessory building that has since been rescinded due to cost implications. The consultants are moving forward with the zoning code review. The DNR conversations on the zoning code amendments are ongoing and a meeting is set with the City Attorney next week. The Commission has discussed the lot size minimum and will be recommending that 60% lot coverage be the standard. The Commission will also be suggesting that all Agricultural use be a Conditional Use permit. The DNR’s concerns with the Mill site property have been resolved. Maggie Raedeke’s presentation went very well and once the final information is received the City will post the website.

Public Safety – Miller has noted that there are concerns with parking on the weekends. The temporary no parking signs by the post office seem to be helping.

The William O’Brien boat launch will be closing in 2024 for construction and as they are not going out for bid until November of this year, he believes the project will take longer than anticipated. He is concerned that may create additional parking issues with the people who will then be launching their kayaks and canoes in Marine.

Chief Mills reported there were 4 calls last month, two fire and two medicals.

Roads – Ryan Goodman reviewed his engineering report. There is a request from Pearson Bros. for the second payment for the seal coat project.

Pardun moved and Anderson seconded to approve the Contractor payment #2 to Pearson Bros, Inc. in the amount of \$33,036.25 for services provided for the 2023 Crack fill and seal coat.

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed

Pardun reported there is approximately three tenths of a mile of micro milling to complete Broadway Street and Farhner has agreed to complete that section at the same price but under a new contract. That project amount would be \$21,772.72 which would bring the project total to \$112,121.16. Ward questioned why that section was not included from the beginning. Pardun stated when the project was originally bid, the cost came in over the City's budget and so they only contracted to do what was budgeted for. However, when the second bid came in, the project came in under budget and so the roads committee decided it would make sense to complete the remaining length.

Pardun moved and Nyenhuis seconded to approve the addition to the micro milling project on Broadway St in the amount stated.

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed

Personnel – No report.

Parks & Rec – Ward reported on the legacy grants from the DNR for the north meadow and the Hollow. Ward thanked Kristina Smitten for her extensive work with applying and receiving both of these grants. In 2020 a grant was awarded for 30 acres in the North meadow in the amount of \$63,000 and in 2022, the grant for the 53-acre Hollow was awarded in the amount of \$198,000. The City budgeted a total of \$3,000 for three years however last month was the first action taken on the grant when a proposed work plan was received from the contractor. A small group of residents in Jackson Meadow met to respond to the work plan. There were many concerns and questions and since that meeting the contractor has terminated the agreement. Ward believes that since the Hollow is 100% City owned, the Council and residents should be fully engaged in the process and decision making of the work plan. Nyenhuis believes the City chose to own that property with no long-term vision of how to manage those properties. He believes the City needs to discuss the value of those properties to the citizens and how to manage them moving forward. Ward suggested a workshop in September to discuss the process of managing grants on City property. The grant for the Hollow expires in 2025 and there was a question as to whether another company will be sought to replace Critical Connections. Nyenhuis questioned if Ward has the bandwidth to find a new contractor and lead the discussion with the public and Council. Ward believes she does.

Kristina Smitten reviewed the grant process. Once the grant was approved, Critical Connections was hired to do an ecological study and create a work plan for managing those lands now and in the future. Jackson Meadow has an open space committee that reviewed the draft work plan. Smitten has not had a chance to ask why Critical Connection has ended their agreement on this project but will try to follow up with them. She does not believe this should prevent the City from utilizing the grant however she is concerned that if the Council waits too long to make decisions and work does not get done in the winter, then it won't get done at all. Ward is not comfortable making a decision on a plan that has not been discussed or reviewed. Miller stated this is City property, not Jackson Meadow property, and is frustrated that nothing has been

presented to Council regarding the management plan. There is also a question of long term management of that property. Discussion was held on the workshop and the timeline. Mayor Nyenhuis would like to meet to review this issue prior to the September meeting so the Council can make a decision as to whether to move forward or not.

Julie Warren, 17550 St. Croix Tr, appreciates the work of Ms. Smitten and the City and believes this grant is a great opportunity to address many of the land management issues in the Hollow. She volunteered to help in any way possible.

Phil Bourne, Kingfisher Lane, agrees with the process of land management and would like to see the workshop happen. He and other citizens are concerned that the planning needs to be well thought out.

Mill Site task force – Miller submitted a proposal for the creation of a Mill Site task force. There was discussion of a sunset date and what would those parameters would look like. The proposal would include two City Council members, two Planning Commission members and two citizens and the completion time would be in two parts. The first piece would be the option to pursue the property, either in full or in part, and the second piece would be to finalize that decision. It was suggested that the sunset language be officially added to the proposal. Miller also stated that Ward and Nyenhuis already have continuity on this issue and he believes they should consider being on the committee.

*Miller moved and Pardun seconded to approve the creation of a Mill Site property advisory committee as described in the document submitted (attached) with the addition of two ending dates: the first being to identify the uses of the property with a recommendation to move forward with the project or not and if there is no forward action by the committee then the issue would be done, however if there is forward action by the committee then they would see it through to the finalize of either management, joint powers agreement or ownership of the property.*

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed

Cemetery – No report.

Water/Wastewater Systems – No report.

City Properties – The work on the Log cabin will begin sometime in September.

Community Events – There was a National Night Out event that went very well. A planning group was hosted after the fact by Mayor Nyenhuis and if there are citizens that would like to be involved in volunteering for community events, he welcomed them to reach out to him.

EDA – No report.

Citizen Committee Reports–

Forest Advisory – No report.

Consent Calendar – *Nyenhuis moved and Miller seconded to approve the Minutes of 7/13/23, Treasurer’s Report of 7/23, List of Bills for 8/10/23, Zoning Administrators Report, Public Works Maintenance Report, Planning Commission Minutes and \$500 donation for the Log Cabin Restoration from Jim Mulfinger. All in favor, motion passed.*

Old/New Business –

Midco Franchise Agreement – The City Attorney has reviewed the proposal franchise renewal agreement and has no concerns. The agreement is specifically for cable services however Midco has been working with residents to get as many access to fiber as they are able.

*Anderson moved and Miller seconded to accept Ordinance No. 172, granting a franchise to Midco Communications to maintain a cable communications system in the City of Marine on St. Croix, Minnesota; setting forth conditions accompanying the grant of the franchise, providing for regulations and use of the system and prescribing penalties for the violation of its provisions.*

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed

Cannabis Usage in Public Ordinance – Clerk Peterson submitted a draft ordinance to regulate tobacco and cannabis use within public places and public property.

Ross Higgins, co-owner of Brookside Bar and Grill, has a concern with the requirement of smoking within 25 ft of all entrances and exits of public places and places of employment. He stated that requirement will restrict his employees from accessing their designated smoking area. Discussion was held as to what determines a primary entrance and how to define that term. Anderson suggested approving the resolution as is and then ask the City Attorney his opinion of the primary entrance issue and present an amendment at the September meeting. Clerk Peterson suggested removing the words “and places of employment” for now and then it can be looked at in the future if there are concerns. This would allow for the 25 ft of entrances and exits to remain, however allow for smoking within a designated area on Brookside property. The Council agreed with that change.

*Miller moved and Anderson seconded to adopt Ordinance 173, and Ordinance amending the Marine on St. Croix City Code by adding Chapter 32, Prohibiting Tobacco and Cannabis Use within Public Property and Public Places.*

Nyenhuis yes

Anderson yes

Pardun yes

Ward yes

Miller yes

All in favor, motion passed

Special Event Permit Insurance – Anderson addressed the issue of requiring insurance for all permitted events. The requirement is not currently included in the special event ordinance and is proposing an amendment to the ordinance to require a Certificate of Liability to all athletic events as well as any event which takes place on a public Street due to the liability potential. Anna Hagstrom, 660 Judd Street, is also an owner of Anna's Bistro. She held an event earlier in the summer and believes hosting an event is very expensive for small businesses. She believes requiring insurance is a burden on those businesses and that the Council should encourage small business and not continue to place hurdles in front of them.

Mayor Nyenhuis agrees with Ms. Hagstrom on not requiring the insurance and believes if the road closure is done correctly then there is very little liability to the City and is not in favor of adding that amendment to the ordinance. Ward is on the other end and does not like the idea of opening the City up to liability. After further discussion no action was taken at this time.

Budget meeting will be held on August 23<sup>rd</sup> at 6:00pm.

Mayor Notes/Clerk's Report –

Adjournment – *Nyenhuis moved and Miller seconded to adjourn at 9:40pm. All in favor, motion passed.*

Minutes taken by Lynette Peterson, City Clerk