

CITY OF MARINE ON ST. CROIX CITY COUNCIL MEETING
Thursday, October 12, 2023

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

Citizens: Glen Mills, Scott Spisak, Ryan Goodman, Paul Paladie, John Goodfellow, Jody Nyenhuis, Larry/Gwen Roden, Jackie Christensen, Jeremy Morris, Win Miller, Jennifer Johnson, Fitzie Heimdahl, Merry Domke, Hugh/Ginny Heimdahl, Robin Brooksbank, Cecily Harris, Andy/Karen Kramer, Anne Minich, Dorothy Deetz, Evan Johnson, Carrie Katzenmeyer, Ross Higgins, Tom Warth, Gerry Glomb, John Waugh, Emily Blake, Heather Morris, Jeannie Davis, Mark Kraske, Matt Anderosn, Roger Lyle, Taylor Nelson, Tim Casey, Todd Mestad, Mary Whitaker, Sharon Looney, Dave Sours, Allison Ogren, Gayle Knutson, Milo Horak, Calyssa Hall, Jen Cress, Jennifer Henry, Anna Hagstrom.

Approval of the Agenda – Miller would like to add the dumpster enclosure to Old/New business and Pardun would also like to add the school district election under old/new business as well.

Nyenhuis moved and Miller seconded to approve the agenda as amended. All in favor, motion passed. All in favor, motion passed

Citizens Considerations –

Robin Brooksbank – Folk School Update – Ms. Brooksbank reported the Fall Festival event in September was a huge success, with approximately 800 people in attendance. She also introduced Kate Sietz as the new part time executive director.

The portable classroom has been converted to the woodworking classroom and the Folk School volunteers would like to paint it Nordic red. They will be covering the cost of materials but would like permission from the Council to move forward. The Council had no issues. Nyenhuis questioned if the fall festival will be an annual event. Brookbank stated the board members and staff will be discussing that at their next meeting.

Ross Higgins – Brookside Bar and Grill Request – Mr. Higgins noted that the gutters on the pumper house drip on the sidewalk between that building and the Brookside in the winter which causes treacherous conditions. He is proposing the City replace the current gutter system with a larger gutter and down spout and the Brookside would be willing to split the cost. Mr. Higgins obtained two quotes, one for \$2,000 and one for \$936. Pardun questioned if heater tape was discussed as a solution. He believes the current 4-inch gutter is more than adequate for that roof size, and that using a heat tape will help to solve that issue. He will have public works work with the Brookside on a heater tape option and appreciates the Brookside's willingness to split the cost.

Pardun moved and Miller seconded to move forward with a solution to the water problem at the Brookside Bar and Grill not to exceed \$2,000. All in favor, motion passed.

Utility Box Artist Recognition – Ward reported that the utility box artist project is complete, and thanked Fitzie Heimdahl for initiating this project. Ward presented appreciation awards to the

following participants:

Fitzie Heimdahl

Merry Domke

Emily Anderson

Karlyn Eckman

Mark Odegard

Tom Maakestad

Carrie Katzenmeyer

Stephanie Howell

Susan Lieber

Planning Commission – Chairman Spisak reported on the September meeting. Sections 600 and 700 of the Zoning code are being reviewed. The work on the riverway status with the DNR is very close to being complete. The October meeting has been moved to the 24th of October to avoid Halloween. The Commission will also be meeting in December in order to continue with the code revisions. Ed Sanderson and Tim Casey will have terms expire in December. Mr. Sanderson will not be continuing however Mr. Casey will. The open term will be posted with requests for applications in early November.

Public Safety – There were ten calls last month. There has also been an issue with false crash calls through Washington County dispatch, which is a glitch with the cell phones. Fire prevention night was successful. Miller and Anderson will be meeting with May Township on the fire contract. Anderson noted that there still has been no response from MnDOT on the reduced speed signs and he may escalate the issue.

Roads – Ryan Goodman reviewed his engineering report. The Washington County CIP comments are due by November 3rd. There is currently nothing in the plan affecting Marine. Farhner Asphalt is requesting their second payment in the amount of \$21,540.19.

Pardun moved and Anderson seconded to approve the Contractor payment request #2 to Fahrner Asphalt Sealers in the amount of \$21,540.19 for the Broadway Street Micro Surfacing. All in favor, motion passed

Personnel – No report.

Parks & Rec – No report.

Cemetery – Milo Horak, Landmark Surveying, has completed the survey of the cemetery. After completing research on public cemeteries, he learned that current state statute may not apply to Oakland cemetery given the date of the original plat. Currently the traveled surface of Broadway Street falls within the boundaries of the cemetery, as does a second platted street. The Council needs to make the decision as to how to handle this situation. If the Council would like the public to continue to use Broadway Street, then the Council should work with the City Attorney to re-plat the cemetery boundary and dedicated the road right of way of Broadway Street. The road described as the Marine/Chisago City Road should also be vacated as well seeing as there are graves buried within that platted street.

There is also a question of the slope on the west side being over 18%, which per code cannot be built on. The creation of new grave sites on the west side are all in house decisions by the city and does not need to be recorded, so that work can begin at any time.

The next steps are to consult with the City Attorney on the legal easements and street vacation, and the Mayor will work with Landmark Surveying on the new lot creation.

Water/Wastewater Systems – No report.

City Properties –

Red Bridge Maintenance- Several months ago, Bolton Menk presented several options for moving forward on the red bridge. Pardun would like to recommend the maintenance option be approved by Council, which would include scanning, regular inspections and periodic preservation work. He suggested the Council request hard cost estimates in the spring and the Council can move forward at that time.

Proposed School Property Committee – Pardun requested approval to begin a committee to evaluate the school property and long-term plan for the property. He would plan on coming forward in November with a charge and details of the committee. Nyenhuis questioned how broad of a committee this would be. Pardun believes planning commission, residents, Council and partners associated with the school would be involved.

Cell Tower – The committee is continuing to negotiate the lease after some concerns with the language are still being addressed. The attorney is reviewing the revisions and the hope is to have something to bring forth in November.

School Gym Rental – Clerk Peterson noted that prior to the charter school leasing the building, the City was allowing citizens to rent the school gym. Now that the building is occupied, and the school is using the gym for various things including items associated with the kitchen, she believes the City should consider discontinuing the rentals of the school gym. After some discussion, the Council agreed with that decision.

Miller noted that Marla will be in attendance at the November meeting to discuss an update on the Jordan bequest.

Community Events – Nyenhuis reported there is a group of residents who have gotten together to give input on City functions and events. He stated this is not an official committee of the city. Miller noted that this group of residents have put out a survey to the public which stated it was in partnership with the City and Miller does not think it should be portrayed in the way if this is not an official committee of the City. Nyenhuis believes he provided an update in September of who was involved in this group and will work to make sure the language of the group moving forward does not indicate that is an official committee of the City.

Mayor Nyenhuis recessed the regular meeting at 7:50pm and opened the EDA meeting to order at 7:50pm.

Mayor Nyenhuis reopened the regular meeting at 8:03pm.

EDA – The EDA met to discuss and approve the rent agreement for the Marine Village School for the 2023-2024 school year.

Citizen Committee Reports–

Forest Advisory – Ward presented a proposed planting plan for the downtown area for the gravel bed trees and EAB replacement trees. Pardun wanted to make sure the trees along highway 95 will be outside of MnDOT right of way. He also questioned the placement of a maple tree across from the post office where there is currently a beautiful maple tree already planted. Ward will check on that placement. Nyenhuis questioned the tamaracks that were supposed to be planted as part of the original plan. Ward noted that several of those had died off due to the drought, and the remaining trees were given to residents along Judd Street to put in the wetland area. Nyenhuis also wanted to make sure that the proposed trees are actually planted in accordance with the presented plan.

Mill site Committee – No Report.

Consent Calendar – *Nyenhuis moved and Ward seconded to approve the Minutes of 9/14/23 Treasurer’s Report of 9/23, List of Bills for 10/12/23, Zoning Administrators Report, Public Works Maintenance Report, Planning Commission Minutes. All in favor, motion passed.*

Old/New Business –

Special Event Ordinance Amendment – Nyenhuis reviewed the September meeting discussion of privately held and ticketed events in a residential district. A temporary moratorium was presented but not acted upon at that time. Anderson has since worked with the City Attorney on an amendment to the current special event ordinance to address this issue. Anderson read a statement addressing an unsigned letter that had been posted to social media containing incorrect information about the ordinance amendment. Anderson then reviewed the proposed amendment which adds an insurance requirement for athletic events and the allowance of a limited number of permitted, renumerated commercial events in a residential district. Anderson suggested changing the title of Subd. 1 (f) from private residential renumerated event to private residential ticketed event.

The Council first reviewed the insurance amendment. Pardun questioned if the insurance requirement contains standard amounts. Anderson stated yes, they it does.

Scott Iwen, 18337 St. Croix Trail N, questioned the definition of an athletic event. Anderson stated any athletic event that takes place on or at city street or trail or requires registration.

Nyenhuis then moved on to section (f). He suggested the allowed number of events be 6 rather than four, but stated that number is certainly up for discussion. Pardun reviewed the STR discussion and how it is always easier to add than subtract. He believes that applies to this issue as well as it is a commercial event, and he would like to suggest two per year instead of four.

Brian Wicklund, 800 Broadway St, has held house concerts at his home in the past. He is a professional musician and instructor and believes these types of events are important to musicians both professionally and financially. He presented several proposed changes to the ordinance. The first suggestion was changing “renumerated” to “ticketed” which was previously addressed by Council member Anderson. He would also like to see outdoor events separated

from indoor events, and believes the allowed number of people allowed for an indoor event should be 50. Anderson questioned if Mr. Wicklund sells tickets to the events he holds in his home. He stated he has asked for a free will donation. Anderson stated this ordinance specifies a ticketed event and does not believe the type of events that Mr. Wicklund is concerned about, i.e., a music class, is affected by this ordinance.

Nyenhuis questioned if the Council is looking to just accept comment tonight or accept the amended ordinance. Anderson is looking to accept the amendment and then request the Planning Commission look at an ordinance revision at a later date.

Dave Sours, 400 Tanglewood Lane, noted that the number of events permitted is listed twice and is redundant. He also questioned the reason for bringing this amendment forward. Anderson stated the second statement was inserted by the City Attorney and the reason for the amendment is to regulate commercial activity in a residential district.

Nyenhuis believes that events with a free will offering can be just as disruptive as a ticketed event and believes there is less control over an event by not selling tickets. Anderson disagrees and stated that there is a definitive difference between a small in-home music gathering where a small donation is requested and a large outdoor event where the public is invited and requested to give a "free will offering" which clearly implied a commercial event. Anderson also believes that those smaller details will holistically be addressed by the Planning Commission when they address creating an ordinance for this subject.

Paul Paladie, 401 Holmes St, questioned what the different between selling tickets and the exchange of money in different situations. He believes this is a slippery slope and do these things really need to be regulated. He questioned the Restoration Society and if that would be included. He also questioned if this issue could be a ballot question.

Anderson does not believe those issues are included in the proposed amendment. If someone is selling a piece of pottery out of their home, then this amendment does not apply to them.

Pardun stated Council did not just create this because they had nothing else to do. It was brought up as a complaint by a resident because of an event. He also reiterated that commercial use in a residential district is not currently allowed and the Council is working to look out for all citizens.

Andy Kramer questioned if this ordinance would restrict commercial wedding event centers.

Anderson stated the City Attorney believes there is enough ambiguity on the issue that it would be covered by this ordinance, however again this will be addressed by the planning commission in the future ordinance.

Planning Chairman Spisak stated Councilmember Anderson is correct in that commercial activity of this sort is not permitted in a residential zone. The home occupation regulations also do not cover that kind of commercial activity; however, it does address retail sales. He believes there are inconsistencies in having it permitted in one ordinance and not another, however the City Attorney believes that is the option of the Council. Chairman Spisak believes addressing this issue at the Planning Commission level will be a very large undertaking, not unlike the short-term rental ordinance, and his preference is that the Commission continue to move forward with the zoning code adoption prior to addressing this issue. The Council agreed with that suggestion. Spisak also noted that a previous resident who spoke suggested residents be allowed to police themselves and the issues with the STR have proven that doesn't always work.

Calyssa Hall, 5th street, believes that the code should be changed to allow more options for in home activities given the changes that have occurred post covid, especially with performing arts. She believes allowing for free will donations is more difficult because it does not allow for regulating the number of people attending the event. She also questioned if there could be a

change to the number of allowed events to allow one event to be multiple days, and she questioned the calling out of a sponsored event and who would be responsible for applying for the permit.

Anderson stated the multiple day situation would be handled on a case-by-case basis. As for who is responsible for permitting, it falls on the person hosting the event. Nyenhuis noted this is a hospitality issue with residents and allowing residents to use their home for these kinds of events, which is why the homeowner needs to be the responsible party for the permit. Anderson also stated that a permit fee for these events has not yet been set, however it will not be more than what is spelled out in the current fee schedule.

Jeremy Morris, 17977 St. Croix Trail N, stated they have hosted two of these events, and they are still considering what their long game is for future events. He is concerned that the ordinance amendment is not addressing some of the concerns addressed by the residents and questioned if that is something the planning commission will determine. Nyenhuis clarified that the Commission studies the issue, receives public comment and creates a recommendation, however they do not determine on their own what those restrictions will be. Mr. Morris wanted to make sure that if they host a concert in their barn, but do not sell tickets, how will they be regulated and how will they know if they will require a permit. Anderson stated that his residence, at 17977 St. Croix Trail N, is registered as Affinity Farms which is an LLC. Mr. Morris has advertised and sold tickets, through Event Brites, for concerts in his barn, which has been described as a venue for these concerts. Anderson also stated that food and alcohol are catered for these events. This property, which is located in the Rural Residential district will require a permit through this ordinance for any future events on that property.

Anna Hagstrom, 660 Judd Street, stated she appreciates the work of Council and city staff. She does not believe the residents are trying to be divisive however this have become a hot topic. She is currently a member of the Planning Commission, and understands making difficult decisions. She is requesting the city take a pause and give the public more time to digest the amendment. She would like to see information that will be on the agenda presented to the public earlier than two days prior to the meeting.

As a point of clarity, Anderson had previously stated that Anna's Bistro has catered an event at Affinity Farms. Anna Hagstrom requested to correct the record that the event has not yet happened and so she has not yet catered the event. It was clarified that she will be catering a future event for Affinity Farms as part of an approved special event permit. Ms. Hagstrom does not believe there should be a rush to pass this amendment and would like to see more discussion on the number of events allowed.

Nyenhuis believes there has been good feedback from residents and agrees with Ms. Hagstrom there is a rush to pass this ordinance. He would like to see the amendment recrafted and reviewed again by legal counsel and brought forth at the November meeting.

Miller believes that the freedom of speech is alive and well in the town of Marine and also believes that social media is not the place to discuss issues due to the significant amount of misinformation. He believes the Council has four options: the first is to do nothing, the second is hold all events, the third is to pass a moratorium and the fourth is to pass this amendment. Miller believes passing this amendment is the best option because it takes something that is currently not allowed and gives the residents an opportunity to showcase the arts and hold these types of community events without skirting the rules.

Nyenhuis believes there needs to be continuity within the Council and he does not believe they are at that point. He also believes there are holes in the language and in the spirit of good will in

the community, a 30-day pause should be taken on this issue. Ward does not have a problem with the continuity on the Council or believe that 30 more days will substantially change the language of the amendment and believes that Council member Anderson did a great job addressing the short comings that came before.

Anderson moved and Miller seconded to accept Resolution No. 20231012-01, Ordinance 173 amending Chapter 26 of the city code, Special Events, with the corrections under Section 3, Subd. 1 (f) replacing the word remunerated with ticketed and the addition of in a calendar year in the last sentence. Anderson yes, Miller, yes, Ward, yes, Pardun, yes and Nyenhuis no. Motion passed.

School District Election – Pardun reported that School District 834 is holding a special election for a bonding bill and the voting precinct for Marine has been moved to May Township. There is an option to vote early or via absentee through Washington County.

Mayor Notes/Clerk's Report – Mayor Nyenhuis and Councilmember Miller have met to discuss the dumpster enclosure and they will present their proposal at the November meeting.

Adjournment – Nyenhuis moved and Ward seconded to adjourn at 9:39pm. All in favor, motion passed.

Minutes taken by Lynette Peterson, City Clerk

Lynette Peterson

From:
Sent:
To:
Cc:
Subject:

[REDACTED]

Several days ago a seriously flawed but clearly orchestrated unsigned "open letter" was posted on the Marine booster Facebook site. The misinformation in that still-unsigned letter and follow-up commentary is indicative of everything wrong with social media - how it distorts the truth and encourages a mob mentality, rewards ignorance, inflames false narratives, and discourages reason. It is a place for echo chambers, not a forum for dialogue.

Many people are here because they oppose an ordinance or an amendment that exists only in their minds. They will blame council for not communicating better or clearly, but in actuality they have created a giant straw man for themselves, and are here to knock it down. Unfortunately, some seem to relish instigation, and this is just their current manifestation.

Ch 26, Special Events Ordinance, is not new or being considered here tonight. It's already been on the books for over a year and has been the subject of council work and public comment for two years. It started due to a serious bicyclist injury during an event that the city was unaware of, and a desire to have some regulatory control over the defined events, as well as folding in the defunct sound amplification ordinance.

There are only two proposed sections that are under consideration for addition as an amendment, and the clean version is what you see in the packet. To answer a couple misconceptions that were stated on social media about the existing ordinance:

Athletic events were defined as requiring registration and traversing city streets or trails. That is what the ordinance states. At least two commenters, who believed this entire ordinance was brand new, stated that "according to their reading" of the ordinance a "pickup soccer game would need to be permitted." That is false. In no way does this ordinance require a permit for this activity.

Another commenter stated that even the church or school would require permits. This is blatantly false. The church and school, and other exempt entities, which already includes the Marine Folk School and Red Bridge school, are already explicitly exempted in the existing ordinance. The Folk School does pull a community festival special event permit for the fall art fair only.

With the exception of the emergence of the phenomenon of commercial activity taking place on residentially zoned property, the ordinance has functioned well for many events over the past year plus.

A few notes now on commercial activity.

Ch 407 of the zoning code addresses home occupations, but not explicit commercial activity. Because of this, the city council is asking the planning commission to clarify this issue in our zoning code.

Now, to address the two amendments to the existing ordinance. These are the actual things being proposed tonight.

The first is an insurance requirement for athletic events. Remember, those are events where participants register and traverse city streets or trails.

After council and public conversation on insurance requirements, it was determined that organizers of athletic events, as defined by the ordinance, would be required to name the City as an additional insured. In this case, a race with registered participants that traverses city streets and trails would have to cover the City as an additional insured, protecting the City and its taxpayers from liability in the event of injury or death. It also gives discretion to the council to add insurance as a requirement to an event if it is deemed necessary to mitigate risk based on the scope of the event.

Now, I will comment on the addition of private residential remunerated events.

1. The previous moratorium language was presented by the city attorney. It was included in today's packet, not the agenda. The moratorium would've prohibited commercial activity on residentially zoned property for a period of time until the issue could be resolved by the planning commission, similar to how short-term rentals were disallowed while the planning commission resolved that issue.
2. The proposed event definition amendment is NOT a moratorium. In fact, the amendment will allow a limited number of commercial events on residential properties that would not otherwise be allowed under current zoning.
3. There has been extensive public engagement about Ch 26 both before and after its passage over two years. I have recently spoken or emailed with at least a dozen concerned people about this specific amendment in the last two weeks. This is an amendment to an existing ordinance as part of an existing conversation. Those complaining about lack of engagement either want to write policy to advance their own interests or they themselves have not been engaged over the last two years regarding special events.
4. Now for the definition of what kind of commercial activity we're talking about. The language of the proposed amendment regarding private residential remunerated events is clear: A ticket or other admission charge is required under the definition of the private residential remunerated event. Last time I checked those holding garage sales or sales of goods from people's home-based occupations do not charge admission. The definition stipulates ticket or other compensatory artifice for the event. You don't sell tickets for a music lesson. If you teach for the folk school the folk school is the exempt entity that is paid during registration, not the residential home owner. If a homeowner needs to utilize their garage to make a cut to a piece of wood in the course of the folk school class being taught this amendment would not restrict that use in any way.
5. Regardless of which residential zoning district they are in, those who plan on hosting more than the four proposed commercial events will have this activity reviewed and addressed at a later date by the Planning Commission in which there will an opportunity for community engagement and feedback for any zoning language that may be added to our code.
6. As it is, this amendment under the existing special events ordinance will satisfy most of the needs of the artistic community to hold events on residentially zoned property, thus giving them flexibility to operate in a way that promotes the arts while ensuring that those activities do not exceed a "de minimus" standard on activity that is commercial, or for profit, in nature. For most folks in Marine, it will be business as usual.
7. The fact that this amendment will allow ticketed commercial events on residentially zoned property without exposing the property owner to further zoning regulation should be viewed as generous, not onerous.

So, we are here as council to discuss these two amendments: Insurance and private residential remunerated events. We are not here to discuss the rest of Ch 26, or the misconceptions thereof.