

SUNFISH LAKE CITY COUNCIL MEETING
Tuesday, October 3, 2023
First Calvary Baptist Church – 5495 S Robert Trail
7:00 P.M.

Attendants

Mayor: Dan O’Leary
Councilmembers: Present: Shari Hansen, Steven Bulach, Mike Hovey, Shannon Nelson
City Attorney: Timothy Kuntz
City Forester: Jim Naves
Police Chief: Brian Sturgeon
City Engineer: Justin Messner
City Planner: Lori Johnson
City Clerk: Christy Wilcox
City Treasurer: Ann Lanoue

1. **Call to Order**

2. **Approve Agenda**

Mayor O’Leary recognized Councilmember Nelson. Councilmember Nelson who serves on the Lower Mississippi River Watershed Management Organization was made aware of a potential settlement the City should be receiving as part of the Monsanto Class Action in the amount of \$17,414.00. Councilmember Nelson researched and contacted the appropriate individuals involved with this class action so that the City will be receiving these funds.

Mayor O’Leary asked if there were any additions or corrections to the agenda.

Councilmember Hovey moved to adopt the agenda, seconded by Councilmember Hovey. Motion carried (5-0).

3. **Consent Agenda**

Moved by Councilmember Nelson, seconded by Councilmember Bulach to approve the consent agenda. Motion carried (5-0).

- a) Approve Regular Minutes of September 5, 2023
- b) List of Bills
- c) Monthly Financial Statements
- d) Receive Building Inspection Report
- e) Receive City Forester Report
- f) Receive Public Safety Report

Chief Sturgeon went over the summary of calls for the month and answered the questions raised by the Mayor and City Council. Chief Sturgeon discussed what occurred regarding the homeless people living on the MNDot property. The Outreach Team were able to provide them with some

different housing options. The Police Department did receive numerous calls on this but did not include every call on the report.

Mayor O'Leary addressed the number of calls that he and the City Council received regarding this issue. Because of this, it was determined that it was appropriate to send out a letter to all residents. Mayor O'Leary noted that Sunfish Lake does not have full-time staff and a City Hall so it is difficult at times to get out a quick letter. The best way to get information out is by signing up to receive "eNews" on the City's website. This is secure and the City does not share your email and it is used only for city purposes. By the time the letter was done and mailed, the situation had been resolved. Mayor O'Leary mentioned that communication may not be available immediately until proper information and data has been provided and unless it is an emergency situation. The Police Chief immediately contacted the appropriate agencies to provide assistance to the homeless people. One of the residents who called and was very angry that the Mayor and City Council did not take immediate action to throw these people out was told that this was property owned by the State of Minnesota and the City could face legal action. Again, the Police Department and Police Chief did a wonderful job monitoring the situation and this was handled very professionally.

4. **Comments from the Public**

- Shari Wilsey was present to discuss the concerns she has with the safety of walking on Salem Church Road. There is no uniform walking space, it goes from 16 inches to 3 inches. Ms. Wilsey distributed pictures that showed the unsafe walking situation as well as the number of blind spots when walking if a car drives down the street. Another concern is homeowner's that do not live at the property and do not maintain the land. There are areas where the branches are almost hanging over the middle of the street and you can't walk because it is very narrow, and you are now in the middle of the street to walk. Ms. Wilsey raised a question that she was told by a resident that Salem Church Road is parking by permit only and wanted an answer. Ms. Wilsey raised the concerns when lawn mowing services are parked at a residence, it is nearly impossible to get through on the street. Ms. Wilsey has concerns on the number of dead trees because of the power wires in the area and the number of times they have lost power because of this.

Chief Sturgeon indicated that there is parking on Salem Church Road and that there is not an ordinance regulating parking by permit only. Chief Sturgeon noted that the City Council can designate certain streets or portions thereof as no parking zones. The Mayor noted that the problem with that is the City does have events such as the Annual Arbor Day right off Salem Church Road so this could cause an issue.

Regarding the issue of property owners not maintaining their land, Jim Naves indicated he is in the process of receiving bids for removal of buckthorn which would widen things out on the streets and the proper way of trimming and thinning of trees, etc.

The City Attorney stated that it is the City's responsibility to take down any trees or brush on City property. It is the homeowner's responsibility to remove dead/hazardous trees but there

are certain ramifications far beyond the scope of this. There are several dead trees within the City of Sunfish Lake.

Residents were directed to call Xcel Energy to deal with any trees that may be near power lines and are of concern.

After much discussion, the item of parking on Salem Church Road will be placed on the next regular City Council meeting agenda.

5. **Public Hearing/Presentations**

There were no public hearings or presentations.

6. **Planner's Report:**

- There will be a meeting on October 19th
- 116 Salem Church Road: At the June City Council meeting, the property owners at this address expressed their desire to obtain a front yard variance for a home addition. The property owners have now submitted a complete application within the last week and their variance request will be reviewed at the Planning Commission meeting on October 19th. An on-site meeting will be held at 6:30 prior to the Planning Commission meeting.
- 415 Salem Church Road: An application has been received for major site plan approval for the construction of an inground pool at this address. The application is missing quite a bit of information and is expected to be deemed incomplete.
- Escrows: Staff asked for updated escrows for the 205 Salem Church Road, 11 Salem Church Lane and 15 Sunnyside Lane projects. The Planner has received all the escrows for these properties.
- 3 Sunfish Lane: The homeowners applied for a demo permit for a small pump house and a small free-standing garage on this site that are severely dilapidated. The applicants went through the proper permit channels, submitted the fee and escrow and provided all required information. Staff have reviewed the information and have given the property owners permission to demo the buildings.
- 39 Windy Hill: The home at the address is for sale, and staff have received calls and answered questions pertaining to a larger driveway for the property, potential additions and even a potential rebuild. Also have received a call regarding 389 Salem Church Road that is for sale.
- Ordinance Updates: Several chapters have been redlined and the Mayor and City Planner will be meeting to discuss the proposed ordinance changes.

6B. **114 Salem Church Road – Major Site and Building Plan Review**

Planner Johnson referred to her reported dated October 3, 2023, as well as the presentation packet that was distributed this evening. The existing land use is Rural Residential and zoned R-1 with 5.66 acres.

Proposed

- 9,502 square foot new home
- Exceeds setback requirements
- Impervious surface is 3.42% - meets requirements
- Building coverage is 1.77% - meets requirements

- Access is a shared private road (Horseshoe Lane) which connects to Salem Church Road. Applicants/Owners will be required to inform other property owners that they will be responsible for any damage to the private road. It is recommended that the owners take pictures before construction.

Landscaping and Tree Removal/Preservation

- Heavily wooded site
- 88 significant trees removed to construct home
- Applicant would normally replace on a one-to-one basis
- Because there are so many trees on site, City Forester has recommended a fee in lieu of onsite replacement
- Applicant will replant 9 new trees; 79 trees need to be replaced
- Forester recommends \$75 per required replacement tree
- Applicant required to pay \$5,925 to the City's forestry fund to be used to plant trees in other areas of the City

Other Items

- Smart Siding will be installed
- Metal roof elements
- Height 29.11. That is from the average ground elevation prior to construction.
- All lighting on the building meets City footcandle requirements
- Staff is recommending approval with the conditions as listed in the report

Mayor O'Leary asked the City Forester about the tree plantings. The City Forester indicated that this is a unique situation because this lot is heavily wooded with mature oaks and he does not believe you could plant more than about a dozen trees successfully. So rather than hold them to something that can't work, we believe that this would be good for the City. The City Attorney stated that the City has the discretion to do this type of agreement.

Councilmember Hansen asked about how the fee was determined. The City Forester said that because you are buying the number of trees in bulk and the size of tree, this is a reasonable amount. A standard replacement tree in the city is six (6) feet.

Councilmember Bulach asked about the trees being taken down around the house or backyard. The City Forester noted that they have been working on this property for a couple years and primarily removing buckthorn and other invasives and clearing out dead trees. They have been diligent about not harming the big oaks. The nine (9) trees will be planted around the house and the trees removed were around the house as well.

Mayor O'Leary asked if there were any further comments from the property owner and public at this time.

Mayor O'Leary asked if the City Council had any questions or comments.

Moved by Councilmember Bulach to adopt Resolution No. 23-21, RESOLUTION APPROVING A MAJOR SITE AND BUILDING PLAN REVIEW FOR THE PROPERTY AT 114 SALEM CHURCH ROAD, SUNFISH LAKE, DAKOTA COUNTY, MINNESOTA, seconded by Councilmember Hovey. Motion carried (5-0).

7. **Engineer's Report:**

- **Engineering Activities Undertaken in the Month of September**

- No new engineering activities were undertaken during the month of September.

- **Building and Site Reviews in the Month of August**

- A. 100 Windy Hill Road: Staff met on site and conducted a walkthrough of the project with the applicant's Project Manager, Engineering, and Building Inspector to review the project for issuance of the Certificate of Occupancy. All turf establishment and trees have been installed. The grading as built has been received and grades verified with the approved plan. Final testing results of the infiltration basin have been received and both basins surpassed the required infiltration results. Staff has recommended the issuance of the Certificate of Occupancy.

- **Public Works Activities Undertaken in the Month of October**

- A. No new activities are planned for the month of October at this time.

8. **NEW/OTHER MATTERS:**

- A. Discussion of Fire Protection Services

Fire Chief Dave Dreelan gave an excellent presentation and explanation of the costs that are involved in providing fire protection services. As discussed with the Fire Chief the only concern that is being raised is the formula used for determining costs. The City does have an issue with the \$1.4 million costs, as Chief Dreelan showed that those costs are not inflated nor unreasonable, so our only discussion was that part of their formula for determining the 6% that Sunfish Lake pays towards that \$1.4 million cost. Is this reasonable because it is in part based on property value and of many of our property values are quite high in comparison to our surrounding communities and we only have 220 or 221 homes, which is probably much smaller than other adjacent communities. And in addition, we have no commercial property other than the four churches in Sunfish Lake. It was discussed at the last regular City Council meeting if the City should formalize a request for proposal situation to determine if the costs are reasonable in comparison to other communities to ensure that we are abiding by proper fiduciary standards for residents.

The City Attorney asked the council whether a request for proposal is something you really want to take on. The City has received a lot of information over the last few weeks and learned a lot from tonight's presentation. The presentation tonight outlined that the City of Sunfish Lake requires special handling, training, equipment and special protocols on site. It becomes very important that the correct equipment exists. The formula that has been referred to has been used over the past several years, is what is in question.

Because there are basically only two candidates that could provide this service, we are not going out soliciting from other communities that are not able to accommodate Sunfish Lake. It does take a considerable amount of time to prepare a formal request for proposal. We are also looking at the timing of this and don't believe that anyone will be changing a formula at this time.

Mayor O'Leary asked if the City can, in an informal fashion, discuss fire protection services. Because the problem is the City does not have the data. We assume that Inver Grove Heights is the only other department that would be possible to provide fire protection services to Sunfish Lake. Inver Grove Heights has two tanker trucks and has full-time staff, so they have paid full time people on call. So technically or theoretically, I've been informed that it would probably be even a faster response time if you have the same capacity, a faster response time, or at least an equal response time. If we assume that they did their formula and determined that it would be \$10,000 or \$15,000 less, which would be a substantial amount less, I think maybe we might have to look at that in more depth. On the other hand, if it's the same cost of \$90,000 and because we have had substantial increases, we have an additional factor to consider after our meeting with the chief tonight. That is within a couple of years, we are going to be looking at their tanker truck having to be replaced at a cost of \$500,000 and that's going to impact the percentage costs again significantly with our contract. What if Inver Grove Height's tanker trucks were much younger and did not need replacement? Again, I think these are all factors theoretically we should be exploring on behalf of the residents. Can we explore these on an informal basis, just to make sure that we are being properly fiduciary responsible to our citizens?

Fire Chief Dryland said that he would be more than happy to discuss things informally and provide all the information that is needed.

After much discussion the following motion was made:

Moved by Mayor O'Leary, seconded by Councilmember Nelson to authorize the Mayor to begin exploratory conversations with Inver Grove Heights without any binding commitments to explore fire protections services. Motion carried (5-0).

B. Proposed Ordinance Prohibiting Use of Cannabis Products in Public Places.

The City Attorney reviewed the attached proposed ordinance that states cannabis cannot be used in the two city parks. This authority to impose this prohibition is specifically laid out in the statute, which gives the city local control. The recommendation is to pass the ordinance. Councilmember Hovey asked why Russ Wahl Park was not included. The City Attorney said the reason it was not included is that creative minds have thought of a lot of public space. The more you control, the more issues you have. We are trying to keep it simple.

Moved by Mayor O'Leary, seconded by Councilmember Hovey, to approve Ordinance No 23-03, amending the Sunfish Lake City Code, Chapter 612, Prohibiting Cannabis Use and Prohibiting Use of Hemp-Derived Consumer Products with the Public Parks of Musser Park and Harmon Park located within the City of Sunfish Lake. Motion carried (5-0).

C. Discuss and Accept the Audit Results

Treasurer Lanoue explained that this was the first audit done in several years from an outside organization. She went over the audit and the questions that are normally asked from having an audit. They have identified some escrow accounts to write off and will go over them later. Treasurer Lanoue was pleased with the audit after not having had one in a long time. There were two non-compliance items. One was having the declaration on the back of checks that says, *"I declare under the penalties of law that this account, claim, or demand is just and*

correct and that no part of it has been paid". Treasurer Lanoue has ordered new checks with the declaration added. The second non-compliance dealt with collateral coverage. The auditors recommend the City establish a more specific understanding with the bank for the needed collateral. Ultimately, it is the City's responsibility to have adequate coverage regardless of the bank's process. Treasurer Lanoue said she has visited Wells Fargo to try to discuss with a banker, but she has not been able to do this yet.

Councilmember Nelson asked if the City is obligated to use Wells Fargo. Treasurer Lanoue said we are not but we would have to go through an entire request for proposal for banking services. Attorney Kuntz said you must make sure they are qualified.

Mayor O'Leary didn't think that this would be that complicated. However, Treasurer Lanoue said it is more difficult than one would think and said it would be easier to get the account collateralized. She will continue to work on this and noted there are not huge issues relating to the audit.

Treasurer Lanoue went over the financial reports. The big issue that she has heard about is the escrow accounts. There were questions that came up tonight before the meeting that she is going to try to address. She handed out an activity account report for 2023 and went over why the City is down \$26,000. That is because there is money coming in and going out of that fund.

Mayor O'Leary asked why the report dated September 30, 2023, has a deficit of \$76,665 so why doesn't that match the \$92,000? Treasurer Lanoue indicated she does not have a reconciliation now between those two amounts. She said, "I can't give you a reconciliation tonight." Mayor O'Leary noted that it appeared from all the audit documents that were submitted, that the amounts of the write offs, which were over \$102,000, only went through 2019. Treasurer Lanoue indicated that in previous discussions, the City was going to write off through 2019 and wait until the project was further along.

Mayor O'Leary noted that since October of 2021, our message from all the Council has been consistent is that we need to have a complete list of all escrow amounts that a decision can be made as to what should be written off.

After much discussion on the audit the following motion was made:

Moved by Mayor O'Leary, seconded by Councilmember Bulach to continue discussion of the audit to November 7th. Motion carried (5-0).

9. **Adjournment**

Mayor O'Leary adjourned the meeting at 8:39 p.m.

Christy Wilcox, City Clerk

Dan O'Leary, Mayor