

**WAITE PARK CITY COUNCIL MEETING****JUNE 26, 2017**

A meeting of the Waite Park City Council was held at Waite Park City Hall on Monday, June 26, 2017 beginning at 6:30 PM.

**MEMBERS PRESENT**

Members present were Mayor Miller, Councilmembers Linquist, Schneider, Schulz and Theisen

**CITY REPRESENTATIVES PRESENT**

City Representatives present were City Administrator Johnson, Deputy Clerk-Treasurer Virnig, Chief of Police Bentrud, Planning and Community Development Director Noerenberg, Attorney Hansmeier, SEH Engineer Wotzka

**OTHERS PRESENT**

Bob & Helen Trisko, Kurt Scepaniak, Dan Scepaniak, Sonia Eizenhoefer

**OPEN FORUM**

Mayor Miller invited anyone wishing to speak during the open forum to step forward, but no one came forth.

**COUNCIL AGENDA**

Motion by Member Schulz, second by Member Linquist, to approve the 6/26/17 Council Agenda as amended.

## 4.B. (Add) Proposed County Sales/Wheelage Tax

The motion carried unanimously.

**1. CONSENT AGENDA**

Motion by Member Theisen, second by Member Schneider, to approve the following 6/26/17 Consent Agenda items:

- 1.A. Approved Council Minutes of June 5, 2017
- 1.B. Approved Appointment of Jesse Willard to Fire Department
- 1.C. Approved Optimist Club Gambling License at Grizzly's Wood Fire Grill – 137 2<sup>nd</sup> Avenue South (**RESOLUTION NO. 062617-01**)

The motion carried unanimously.

**2. PUBLIC HEARING – BODY WORN CAMERAS**

The City of Waite Park is considering implementing a Body Worn Camera (Portable Recording System) Program within its Police Department. The use of body-worn cameras (BWC's) in law enforcement is relatively new. The primary purpose of using BWC's is to capture evidence arising from police-citizen encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

In accordance with Minnesota Statute 626.8473, Subd. 2, "A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly-scheduled meeting." Minnesota Statute 626.8473, Subd. 3 requires that "the chief officer of every state and local law enforcement agency that uses or proposes to

use a portable recording system must establish and enforce a written policy governing its use. In developing and adopting the policy, the law enforcement agency must provide for public comments and input as provided in subdivision 2.”

The cost to implement BWC's within the Police Department would be approximately \$27,000 for 18 cameras with an ongoing cost for data storage of \$18,000 annually. This would also allow us to replace cameras every 30 months and would include the AXON Capture software which provides the ability to use SMART phones to take statements and reviews videos. This is something that has been budgeted within the Police Department but requires Council's action to purchase and implement the BWC Program.

The purpose for the meeting tonight is to give the public another opportunity to provide the Council with any thoughts or concerns related to BWC's and its BWC Proposed Policy. No Council action will be taken at the meeting tonight. A copy of the proposed policy has been previously provided and is also on the City's website at [www.ci.waitepark.mn.us](http://www.ci.waitepark.mn.us).

The proposed implementation and policy for BWC's has been provided and discussed with the Police Department Personnel. They will have time to review the policy and bring forward any thoughts or concerns prior to Council action. The City will continue to accept public comments online, email, and in writing up until the Council has made a determination regarding the BWC Program and the Policy. The policy is still a draft and will be further refined prior to its adoption. It is anticipated that this will come before the Council on July 17<sup>th</sup> for consideration.

Mayor Miller opened the Public Hearing by reading the Public Hearing Notice. The Public Hearing opened at 6:32 p.m. No one came forth to speak at the Public Hearing.

Motion by Member Theisen, second by Member Schneider, to close the Public Hearing at 6:33 p.m. The motion carried unanimously.

Mayor Miller announced the body worn camera policy will be presented for consideration at the July 17, 2017 City Council Meeting.

### **3. HORIZON ROOFING SCREENING**

This request has been submitted by City staff with support from owner of the Horizon Roofing property (Dan Scepaniak) and Bob and Helen Trisko, owners of adjacent property located to the west and south of the Horizon Roofing property.

Staff would note that this request is being brought to the City Council, after previous review by the Planning Commission to allow them to review and potentially clarify the intent for screening of this property. The request is not to amend the Conditional Use Permit. Depending on guidance from the City Council, separate processes may be required to facilitate the project (such as a variance for fence height).

Staff has been coordinating with the Dan and Kurt Scepaniak of Horizon Roofing over the last several weeks regarding the screening plan for the property, which was a requirement of the original conditional use permit that allowed for installation of a monopole cellular tower owned and operated by Verizon Wireless that was reviewed by the Planning Commission in October of 2014. The request was later approved by the City Council in November of 2014.

In early 2015, the City Administrator and City Attorney approved an agreement with the Scepaniaks which would allow the screening to be delayed until the construction of the cell tower was complete, in order to maintain access to the site for construction equipment. Delays in the project, which were approved by the City, led to the construction taking place much later than expected, with the tower only recently having been completed. With the construction taking place, staff has been coordinating with Horizon Roofing on their plans. As was required as part of the Conditional Use Permit, a screening plan was included as part of the building permit application and approved at that time by staff. However, in the time since the Scepaniaks have requested to amend several aspects of the approved plan, which spurred the current discussions.

During this process, questions have arisen from the adjacent owners who believe that the screening plan should be more intensive, with more and higher fencing than has been required by City staff. They believe that the Planning Commission and City Council had required taller fencing, in the 8-10 foot tall range. Since current staff was not working with the City at the time of the original review, and due to the ongoing disagreements between the property owners, staff would like the Planning Commission to weigh in on the issue.

The intent of the screening plan, at the time of the initial request and application, was to screen the Horizon Roofing property from view of the roadway and bring the property into compliance with City Ordinance. City Ordinance also requires outdoor storage to be screened from adjacent properties, even if the properties are zoned Industrial as well. At the time of the request in 2014, it was found that there was an inordinate amount of outdoor storage taking place on the property, which is supported by the included aerial imagery from 2015. An aerial image from 2010 also demonstrates significantly less materials and equipment being stored onsite at that time and shows the increase in the years following.

Pictures and notations included by staff depict the current conditions of the site. It is worth noting that much of the equipment along the western side as depicted in the aerial imagery has been removed. Much of the area is used simply for parking of employee vehicles. The majority of what would be considered as "outdoor storage" is concentrated along the rear property line and consists of pieces of heavy equipment. Kurt Scepaniak has advised that they are amenable to relocating some items, such as the campers, as may be needed.

Part of the issue of concern is the rear property boundary. There is a significant elevation change, of what staff would estimate to be 10-12 feet, in which the Trisko property to the south sits higher than the Horizon Roofing property. In staff's opinion, this would render any fencing in the area ineffective in achieving screening from the south as the Triskos believe should be installed. Staff would be more supportive of coordinating with Horizon Roofing on clean-up and/or removal of items in this area (as was also an option as presented to the owners throughout), or utilization of plantings of trees that will grow tall and wide in this area for screening instead of a fence. Information denoting the elevation changes, including contour maps and pictures, are included for review and consideration.

Both property owners have also been dealing with the issue of trees along the western property boundary, which are located evenly on the property line. These areas are also depicted, with the property stakes, on several of the attached photographs. Horizon Roofing wants to put their fence up to the property line, as is allowed by City Code, but they have advised that the Triskos do not want to remove the trees as would be required to do so. It has typically been City policy that such matters are civil in nature and up to the property owners to resolve privately as they see fit, whether this is done informally and amicably or whether they choose to involve legal counsel and follow the civil judicial process. It is staff's understanding that in the time since the Planning Commission meeting and discussion the property owners have been working together toward an amicable solution on relocating/removing these trees.

Staff has included the materials from the October 2014 Planning Commission meeting and the November 2014 City Council meeting, including agenda packets and minutes. Staff's review of these materials indicate that there was not any discussion of the fence height or a specific screening plan, aside from the security fence surrounding the base of the proposed tower itself. This fencing was noted as being 8-10 foot in height, which is where the Triskos may be recalling this height number from, but this was not intended, required, or planned for the entirety of fencing around the property.

The Planning Commission information distinctly notes that there was not a screening plan submitted at that time and that one would be required to be submitted in order for the project to proceed.

Likewise, the City Council report did not include a screening plan, although there were tree plantings noted around the outside of the security fence around the base of the tower. The City Council approval of the Conditional Use Permit required that a screening plan would be in place, subject to agreement between the property owner and City staff. There was not a provision that the plan was subject to review or approval by any adjacent property owners. There was no approval for any fencing greater than 6 feet in height, which would require a variance under City Ordinance.

In early 2015 the City Administrator and City Attorney reviewed fencing questions with the Scepaniaks and determined that an acceptable screening plan would include utilizing slats placed throughout the existing chain link fencing in the front of the property, and that a similar chain link fence with slats (6' height) could be utilized along the western property boundary for screening. The plan that has been submitted for review by staff includes this screening, although a request to utilize a mesh/canvas material (similar to what is used for tennis courts) instead of slats was declined by staff. Staff also gave the option to utilize a solid wood 6' fence on the western property boundary as was depicted on the original building permit which was reviewed and approved. Staff is comfortable with the six foot fencing and screening as proposed. If the City Council believes that a higher fence would be more appropriate, then a separate variance process would need to be followed.

Staff would note that Scepaniaks were made well aware of the screening requirements from the onset of project and throughout the process. There have been some comments made to staff that give

the indication that they feel they are being singled out or "picked on" for compliance, although staff is simply working to fulfill the requirements of the Conditional Use Permit. Bringing the property into compliance requires screening as has been approved, but could also involve removal or relocation of equipment and/or general clean-up of the property. Staff would note that the property appears in better outdoor condition currently than it did in the attached 2015 aerial image.

Regarding the rear property boundary, staff would suggest that the provision of a fence in this area would be non-beneficial for either property owner. It would be an incurred cost for Horizon Roofing and in staff's opinion would not achieve much, if any, benefit to the Triskos. The Triskos have been marketing their property for residential/commercial development (although it is currently zoned Industrial, and the City is willing to work with them on possibilities), and it is possible that any buyer would likely put up their own screening of their specific design.

Staff has also had discussions with Kurt Scepaniak regarding concerns about screening the areas nearest the entrance area, due to the public path that runs parallel to CR 137 and is immediately outside the Horizon Roofing fence. Mr. Scepaniak is concerned about the potential for a bicyclist/vehicle collision and has requested that the requirement to screen be omitted within 50 feet in either direction of the gate to minimize concerns of potential liability for both their business and the City. After reviewing average speeds of bicyclists, reaction times, and stopping distances, staff believes the concern to be valid. However, the possibility of a collision could also be lessened through utilization of signage along the trail on either side, such as stop signs or "trucks exiting" signage. Horizon Roofing utilizes signage in the exit of the gate currently. The Planning Commission advised that if the property is allowed to forego screening in this area, then it is expected that there will not be any vehicles or equipment parked along these stretches at any point, which would negate any visibility and safety gains. Staff would be comfortable with foregoing 50 feet screening on either side of the gate, provided that the recommendations of the Planning Commission are adhered to.

If the Planning Commission believes screening is appropriate for this area, staff would suggest that trees be utilized instead, planted at 6-8 foot height and with overall full-grown height and spread to more effectively block the area. However, staff believes that simple coordination with Horizon Roofing on cleaning up and organizing this area may be effective as well.

The Planning Commission reviewed and discussed the issues at their June 13<sup>th</sup>, 2017 meeting, which included a public hearing component. The Planning Commission heard extensive comments from Dan and Kurt Scepaniak, as well as Bob and Helen Trisko, and held discussion on whether a taller fence would effectively do any good. Planning Commissioners reiterated that there were never any plans reviewed or approved that called for a 8-10 foot fence around the entirety of the property, and advised the Triskos that they could also opt to provide screening of their choosing on their own property at any time.

The Planning Commission recommended that the requirements of the original Conditional Use Permit by screening the property with a fence with slats in the front to the back toward the tower be followed. They did not recommend installation of screening via fence or plantings along the back of the property, with the caveat that further clean-up of the property in the rear area could be required at any time by the City if deemed necessary.

Staff recommends the following:

1. The issue of fence location along the western property line must be resolved privately between the involved property owners. Disagreement between property owners will not prevent fence permit(s) from being issued when ready if they otherwise demonstrate compliance.
2. Review and provide guidance on the screening location and heights of fence. Staff is comfortable with the screening plan as currently agreed-to with Horizon Roofing, including utilization of slats in existing front fence, and installation of 6' tall chain-link fence with slats on the western side of the property and southward past the southernmost portion of the tower and associated tower fencing.
3. Review and consider the issue of rear elevation change and provide guidance to staff as to whether screening (whether in form of fence or plantings) and/or clean-up should be required. Staff recommends against utilization of fencing in this area.
4. Review and consider the issue of bicyclist visibility along the adjacent bike path and whether foregoing 50 feet of screening on either sides of the gate may be permissible.

Member Schulz questioned what the opening width of the entrance was. It is an estimate of 15 feet. Discussion was held on putting signs on the trail near the entrance to caution drivers and trail users of the entrance. Ms. Trisco would like to see a fence on the south side, but if not then some arborvitaes or something. Planning and Community Development Director Noerenberg reiterated a 6-foot fence on the back side would not hide anything because of the change in elevation. Planting trees on a berm does not work very well as they do not grow well unless they are irrigated. Because Horizon Roofing put a tower on their property, they now have to come into compliance with other items, like fencing. The screening that has to be brought up to code.

Ms. Trisco presented a map of the properties and discussed what the property was like when they bought it. She stated she thought she was buying something simple.

Fencing was discussed and whether it should be chain-link or with wooden slats. Discussion was also held on how wide they should leave the entrance between the fencing.

Motion by Member Schneider, second by Member Schulz, to require slots be installed on the existing 6-foot chain-link fence from the east to the west on the north side of the property with a separation from the center of the driveway 25 feet on each side for a total of 50 feet including the driveway, and also a 6-foot wooden fence to be installed from the northwest corner to the southwest corner ending at the south end of the tower with no fencing required on the south side of the property.

Ayes: Mayor Miller, Members Schneider, Schulz, Theisen

Nays: Member Linquist

Abstained: None

The motion carried.

#### **4. COUNCIL/MAYOR**

##### **4.A. REVIEW AND APPROVE BILLS**

Motion by Member Theisen, second by Member Schneider, to authorize payment of the accounts payable list (0317M2, 0617D1). The motion carried unanimously.

##### **4.B. PROPOSED COUNTY SALES/WHEELAGE TAX**

Stearns County is asking for support in raising the wheelage tax from \$10 to \$20 and/or to add a half a percent sales tax in place for improvement of county roads.

Motion by Member Linquist, second by Member Theisen, to support adding a half a percent county-wide sales tax and keeping the wheelage tax at \$10. The motion carried unanimously.

#### **7. ADMINISTRATOR**

##### **7.A. UPDATE**


City Administrator Johnson reviewed the following:

- Ms. Melinda's Dance Studio ribbon cutting will be on Thursday, June 29, 2017 at 4 p.m. with an open house from 4 to 7 p.m.
- The ribbon cutting for the Kwik Trip on 10<sup>th</sup> Avenue North will be on August 2, 2107 at 2 p.m.
- The visit by New West regarding the amphitheater project will be rescheduled, possibly August 7<sup>th</sup> and 8<sup>th</sup>.
- A special Thank You goes out to Park Board Member John Bowden. He applied on behalf of the City for a \$150,000 grant and the City was awarded this grant, which will go toward the connection of the Wobegon Trail on 10<sup>th</sup> Avenue North.

#### **ADJOURNMENT**

Mayor Miller declared the meeting adjourned at 7:11 p.m.

  
Richard E. Miller  
Mayor

  
Shaunna Johnson  
City Administrator

