



**Meeting of the City Council
Held at the Elk River City Hall
Tuesday, September 3, 2024**

Members Present: Mayor John Dietz, Councilmember Jennifer Wagner, Councilmember Mike Beyer, Councilmember Matt Westgaard, Councilmember Cory Grupa

Members Absent: None

Others Present: Attorney Jack Brooksbank (Campbell Knutson)

Staff Present: City Administrator Cal Portner, Senior Planner Chris Leeseberg, Business Services Director/Assistant City Administrator Joe Stremcha, Street and Park Superintendent Tim Sevcik, Community Development Director Zack Carlton, Interim Police Chief Darren McKernan, and Records Specialist Katie Porath.

1. CALL MEETING TO ORDER

Pursuant to due call and notice thereof, the meeting was called to order at 6:30 PM.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. CONSIDER AGENDA

Mayor Dietz asked to remove Item 4.12 for further discussion.

Moved by Councilmember Wagner and seconded by Councilmember Westgaard to approve the agenda, as amended. Motion Carried 5-0.

4. CONSENT AGENDA

Moved by Councilmember Beyer and seconded by Councilmember Grupa to approve the following consent items as outlined in their respective staff reports with the removal of Item 4.12. Motion Carried 5-0.

4.1 August 5, 2024, Meeting Minutes

4.2 August 12, 2024, Meeting Minutes

4.3 August 19, 2024 Meeting Minutes

4.4 Check Register

4.5 Temporary On-Sale Liquor License: Davis-Darrow-Meyer American Legion Post 112

4.6 Resolution 24-50: Condemnation through Eminent Domain - 19116 Troy St. NW

4.7 Severance Agreement and Waiver of Claims - Dalton

4.8 Severance Agreement and Waiver of Claims - Czech

4.9 Event Server Position Description

4.10 Hire Wastewater Operator

4.11 Contract Award: Rivers Edge Commons

4.12 Contract Award: Plants and Things Welcome Complex

Mayor Dietz discussed the proposed contract with Plants and Things for the Youth Athletic Complex (YAC). He requested that the council have a more thorough discussion before voting on it. He asked Mr. Stremcha to contact the contractor to extend the bid if needed.

Moved by Councilmember Grupa and seconded by Councilmember Wagner to continue Item 4.12 Contract Award: Plants and Things Welcome Complex to the September 16, 2024, Council meeting. Motion Carried 5-0.

5. OPEN FORUM

No one appeared for Open Forum.

6. PRESENTATIONS, AWARDS, AND RECOGNITION

6.1 Introduction of New Employees

Council welcomed various staff to the city.

7. PUBLIC HEARINGS

7.1 Interim Use Permit: Residential Occupation, Jason Bye - 10208 209th Ave. NW

The staff report was presented. Mr. Leeseberg reviewed the history of the project.

Mayor Dietz opened the public hearing.

Bryan Rucks, 10296 209th Ave NW, stated some of his concerns about approving the IUP for this property including the appearance of the property, the size of the business, the location of the business office spaces, the building permit issued by the city, Saturday business hours, and the chance of fire. Mr. Rucks asked if he would have to continue to police the property to see that it was in compliance. He asked why residents were not informed of the meeting with Jason Bye, his attorney, and the City Council on August 5, 2024, so they could also speak.

Mayor Dietz stated that Mr. Bye wanted to speak to the council and so, on the advice of the city attorney, he was allowed to come to the work session to make his case. As it was not a public hearing, the public was not invited to speak during that meeting.

Frank Bergstrom, 10303 209th Ave NW, had no complaints against Mr. Bye and spoke in favor of granting the IUP.

The attorney for Jason Bye, Mitchell Anderson, encouraged the council to approve the IUP. He asked if Condition 13 regarding the weight of delivery vehicles could be removed.

Condition 13 states "The parcel shall not be serviced by delivery vehicles larger than 26,000 pounds gross vehicle weight".

Mayor Dietz asked about adding tree cover as a condition of the approval. Mr. Bye was agreeable as long as there was sufficient time to comply.

Scott Rothmeyer, 19041 Alpaca St, Nowthen, business partner of Mr. Bye, spoke to neighbors and there were no complaints. He addressed findings 1, 3, and 9 which "set a tone for the findings to deny." He stated that delivery vehicles have space to pull in and turn around and should not need to back into the property. He requested that Condition 13 regarding truck weight be removed.

Deann Wells 10296 209th Ave NW, stated concerns with approval of the IUP including inconsistencies with the permit application, failure to disclose information, the size of the business, the property being more appropriate for an industrial or commercial location, the use of the pole barn on the property, misdirected semi-truck traffic, the type of materials returning from out of state job sites to dumpsters on the property, and the lack of a Stormwater Pollution Prevention Plan (SWPPP).

Jason Bye, 10208 209th Ave NW, thanked the staff for helping through the process and apologized to neighbors Deann Wells and Bryan Rucks for making them so upset. He stated he was committed to working with staff to fulfill the conditions. He stated that the material returned to the on-site dumpsters was cardboard and not hazardous material. He stated he was agreeable to planting trees to screen his site.

Mayor Dietz closed the public hearing.

The Council discussed the addition of tree screen cover to the conditions. They agreed on 15 evergreen trees, 6 feet tall, planted 15 feet apart wherever Mr. Bye thought they would provide the best screening of his work area from the neighbor to the west of his property.

Councilmember Wagner stated she had looked at the property and observed the amount of traffic on

County Road 33. She agreed with eliminating Condition 13 regarding the weight of vehicles and adding tree cover.

Councilmember Grupa stated that Mr. Rucks may need to continue to police the property and agreed that some nearby businesses may not have proper permits.

Councilmember Westgaard felt the applicant had done what was necessary.

Councilmember Beyer drove out to the property and agreed it is a busy area for truck traffic. He has some concerns if the property is too big for the site or if it will grow bigger. He urged all parties to be a "good neighbor."

Mayor Dietz stated he was not in favor of the project in the beginning, but he believes in second chances and, if Mr. Bye is willing to abide by the conditions, he deserves the chance to run this business.

Moved by Councilmember Wagner and seconded by Councilmember Westgaard to amend, by motion, Resolution 24-51 approving the Interim Use Permit application submitted by Jason Bye, removing the following condition:

13. The parcel shall not be serviced by delivery vehicles larger than 26,000 pounds gross vehicle weight.

Motion 4-1. Councilmember Grupa voted against it.

Moved by Councilmember Grupa and seconded by Councilmember Westgaard to amend, by motion, Resolution 24-51 approving the Interim Use Permit application submitted by Jason Bye, adding the following condition:

Applicant shall plant 15 evergreen trees, 6 feet tall, planted 15 feet apart wherever they would provide the best screening of the work area from the neighbor to the west of the property.

Motion 5-0.

Moved by Councilmember Westgaard and seconded by Councilmember Wagner to adopt, by motion, Resolution 24-51 making Findings of Fact approving the Interim Use Permit application submitted by Jason Bye, which includes the following conditions:

- 1. The applicant and/or property owner must apply for all required commercial building, electrical, plumbing, or mechanical permits before any interior commercial activities can occur.**
- 2. A code analysis finding commercial building code compliance shall be prepared by an appropriate registered professional.**
- 3. The fenced outdoor storage area shall be:**
 - a. Limited to 20,000 square feet.**
 - b. Fenced with a 6-foot-tall 100% opaque fence with gates, to be closed when not in use.**
- 4. The fenced outdoor storage area must be paved with an approved surface (Class 5, concrete, asphalt, or crushed concrete/asphalt).**
- 5. The following shall be located within the fence outdoor storage area:**

-
- a. **All equipment, vehicles, and products related to the business.**
 - b. **Garbage and recycling dumpsters.**
 - c. **All business or employee parking.**
 - d. **Portable outhouses.**
 - e. **Deliveries.**
 6. **Dumpsters with lightweight materials shall be covered when not in use.**
 7. **Except for company vehicles, construction equipment, and enclosed trailers, no materials or products can be stored higher than the top of the outdoor storage area fence.**
 8. **The hours of operation shall be limited to 7:00 a.m.-7:00 p.m., Monday through Saturday.**
 9. **Exterior lighting on the accessory structure and in the outdoor storage area shall comply with Section 30-937.**
 10. **Dust control measures shall be used regularly in the fenced yard area.**
 11. **A stormwater retention pond, if required, shall be reviewed by city staff and installed in accordance with all applicable plans.**
 12. **Outside of routine maintenance/repair completed only by the property owner, there shall be no major repair/maintenance of company vehicles/equipment on site. Routine maintenance/repair shall only occur inside the building with all doors and windows closed.**
 13. **Access to the subject parcel, for business activities, shall occur only at the single driveway located on 209th Avenue/County Road 33.**
 14. **Business delivery vehicles shall not back into the site from 209th Avenue/County Road 33.**
 15. **Signage identifying the business for deliveries shall be installed per county and city requirements.**
 16. **An amendment to this Interim Use Permit will be required for future expansions/additions not shown on the staff site plan dated June 17, 2024.**
 17. **The idling of a truck tractor or other business equipment in excess of 15 minutes is prohibited from April 16 through October 31, and idling in excess of 30 minutes is prohibited from November 1 through April 15.**
 18. **Applicant shall plant 15 evergreen trees, 6 feet tall, planted 15 feet apart wherever they would provide the best screening of the work area from the neighbor to the west of the property.**

Motion 5-0.

Resolution 24-51 will be passed at a future city council meeting.

8. GENERAL BUSINESS

8.1 Discuss Work Session Items

Mayor Dietz left the meeting at 7:57 p.m.

Councilmember Westgaard asked to add two items to a future work session including addressing comments made by Ryan Easton at the August 19, 2024 Open Forum as well as a review of Multipurpose Facility Advisory Commission chapters and bylaws.

Mayor Dietz returned at 7:59 p.m.

8.2 Orono Lake Improvement District Annual Update and 2025 Budget

Chris Rock, Chair of OLID, provided the annual update and 2025 budget.

Mayor Dietz asked if there was any way to predict how long before dredging needs to be done again. Mr. Rock stated that they have been tracking the sedimentation, but it's been inconsistent over the past few years.

The Council thanked the OLID for their work and commended them on keeping fees at \$100. The Resolution will be passed at a future council meeting.

9. COUNCIL LIAISON UPDATES

9.1 Council Liaison Updates

The Councilmembers provided updates as outlined in the respective advisory board's minutes.

10. MOTION TO ADJOURN REGULAR MEETING

Moved by Councilmember Beyer and seconded by Councilmember Westgaard to adjourn the meeting of City Council. Motion Carried 5-0.

The regular meeting adjourned at 8:14 p.m. Mayor Dietz called the work session to order at 8:17 p.m.

11. WORK SESSION – UPPER TOWN CONFERENCE ROOM

11.1 Concept Review: Holzem Properties - Kent Roessler

Mr. Carlton presented the staff report.

The Council felt that the location of the development was key for future development to the northeast. They asked if future developments could hook up to the trunk line and repay the cost incurred by the city to expand into this area.

Kent Roessler, the applicant, added that there are about 140 developable acres and an estimated 280 acres north of the proposed development. His development would be a mixture of townhomes and single-family homes. He is not looking to beginning development this year, so there is time to conduct a study.

The Council directed Mr. Carlton to look into a feasibility study to take a closer look at the development potential within the current urban service area. Councilmember Grupa added that Mr. Carlton should include the potential for 280 additional acres of development in his calculations.

11.2 Discuss Public Safety Facility Patio Addition and Public Safety Aid Update

Acting Police Chief Darren McKernan was in attendance to present a plan to the Council for a patio addition on the northeast side of the Police Station. If the Council approved, they would go out for bid which may be \$50,000. The cost of the project could be covered by the State of Minnesota Public Safety Aid funds.

The Council directed staff to go ahead with getting bids for the project.

11.3 2025 Budget

Mr. Stremcha reviewed the budget status and recommended the addition of a part-time position of Shelter Rental and Athletic Tournament Liaison which would help with shelter and field rentals, maintenance, restocking of supplies, and cleaning.

Mayor Dietz stated he would like to see the final budget increase by less than 4%.

The Council discussed ways to reduce the amount, including increasing the amount of money moved from the liquor store budget from \$750,000 to \$1 million.

Councilmember Westgaard suggested reducing the employee cost of living increase from proposed 4% to 3.5%. Mayor Dietz was in favor of keeping the amount at 4% since Elk River Municipal Utility staff may be receiving 4-6% increases.

Mr. Portner asked the Council if they would consider moving part or all of the Public Works debt onto the general levy. Mayor Dietz was not in favor of that increase but would look at the numbers.

Mr. Portner reminded the Council that they will need to set the preliminary levy at the second meeting in September. They can decrease the amount from there, just not increase it.

Councilmember Westgaard asked if any expenses could be taken care of in the 2024 budget. He is concerned about the Furniture and Things Community Event Center budget and would like to start creating a sinking fund for the building.

Councilmember Beyer would also like to see the final budget number be under 4% and to keep costs as neutral as possible.

Mr. Stremcha reviewed if the 3% goal was for the September 16, 2024, Regular City Council meeting or the meeting in December. The Council asked if it was possible to get the reduced numbers by the September 16 meeting. They are also hoping to see updated estimated market value numbers from Sherburne County.

Mr. Portner stated that the city had received the Sherburne Soil and Water Conservation District Outstanding Conservation Cooperator Award and asked if a councilmember would be available to accept the award on the city's behalf on December 4, 2024, and/or attend the SWCD Conservation Tour on September 20, 2024. Councilmember Grupa is tentatively available depending on the time of the event.

Mr. Portner stated that Mayor Dietz will be participating in the interviews of Police Chief finalist and asked if any other councilmembers would like to attend. No other councilmembers were available on that date.

12. MOTION TO ADJOURN

Moved by Councilmember Westgaard and seconded by Councilmember Beyer to adjourn the meeting of City Council. Motion Carried 5-0.

The meeting adjourned at 9:35 PM

Minutes prepared by Katie Porath.



John J. Dietz, Mayor



Tina Allard, City Clerk