

1. CALL TO ORDER

A meeting of the Waite Park City Council was held on Monday, July 19, 2021, beginning at 6:30 PM.

MEMBERS PRESENT

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

CITY REPRESENTATIVES PRESENT

City Representatives present or on the call were City Administrator Johnson, City Clerk/Accountant Virnig, Public Works Director Schluenz, Chief of Police Bentrud, Planning and Community Development Director Noerenberg, Fire Chief Aleshire, City Engineer Halter and City Attorney Storm

OTHERS PRESENT

Gary Zimmerman, Alyx Johnson, Jeff Johnson

2. PLEDGE OF ALLEGIANCE**3. PUBLIC INPUT**

Gary Zimmerman, Waite Park, stated a lot of trees are dead by the McDonalds on 2nd St S. Mr. Zimmerman also stated there are weeds on the sidewalks in the same area. Mr. Zimmerman stated there are holes that need to be patched up on 3rd St S. Mr. Zimmerman also complained that the noise from the Amphitheater comes straight into his apartment and requested that the shows start earlier so they can end earlier. Mayor Miller did confirm that some concerts would be starting earlier and ending earlier, but the ordinance does allow for noise until 11pm.

4. COUNCIL AGENDA

Mayor Miller asked to move the Drought Warning items to A. under Regular Agenda items. Member Theisen moved to approve the agenda as with proposed change, seconded by Member Schmitt. Motion carried unanimously.

5. CONSENT AGENDA

- 5.A. Approve 6/7/2021 City Council Meeting Minutes
- 5.B. Approve 6/21/2021 City Council Meeting Minutes
- 5.C. Approve Resolution Accepting Donations to the City (**RESOLUTION 071921-01**)
- 5.D. Approve 40 Hours of Starting Vacation Balance for New Police Officer Hires
- 5.E. Approve 2021 UChoose Joint Powers Agreement Renewal

Member Theisen moved to approve the consent agenda as presented, seconded by Member Schmitt. Motion carried unanimously.

6. REGULAR AGENDA ITEMS**6.A. DROUGHT WARNING**

Public Works Direct Schluenz explained that the City received a letter from the DNR late the previous week stating that they have put all public water supplies in a drought warning status. The DNR is stating that any City that has a population of 1,000 or more needs to reduce the water supply. Public Works Director Schluenz explained that every year he has to report how much water the City took out of the ground and based off of that they put a surcharge on as a conservation effort. The DNR is requiring that Cities reduce their consumption by 50% over the usage they report in January. Public Works Director Schluenz stated the City can use up to 950,000 gallons with that calculation. Currently in June, the City used 1.4 million gallons. The City is over 225% of its usage. Public Works Director Schluenz also explained the DNR did not state what repercussions there would be if Cities did not meet their requirement. He did state that the aquifers are dropping and is estimating that if it continues with no change, that the City could be in real danger in five to six weeks.

6.A. DROUGHT WARNING (Cont.)

Public Works Director Schluenz explained that he is proposing to the Council three separate motions. The first one being a total ban on watering, with the exceptions of new yards. He briefly stated what the other surrounding cities are doing. He also stated he would like a motion stating that all City irrigation would cease with the exception of Rivers Edge Ballfields and an area of new turf at The Ledge. This ban would also not affect any flower beds. He is also asking to reduce the hours of the Splash Pad. He explained that the Splash Pad is a recycled water system, but depending on the weather, the City can use up to 10,000 gallons a day at the Splash Pad. He said that the DNR has come out saying that it would take three to five inches of rain over the next two weeks to get out of a drought warning.

Member Linquist asked about residents with their own personal wells. Member Theisen stated that if they get questioned, they must be able to prove the water is coming from their well.

Member Schulz asked if this would impact water for flower and vegetable gardens. Public Works Director Schluenz stated it would not. Member Schulz stated he would be comfortable with the proposed ban.

Mayor Miller asked if Council wanted to try doing the even/odd day watering for two weeks before the next Council meeting. Member Theisen stated he was not in favor of that. Member Linquist stated he liked the idea of allowing watering two days a week. Member Schulz stated he didn't like the idea. Administrator Johnson did say that it is hard to regulate and police every other day watering.

Mayor Miller asked when the water ban should go into effect. Public Works Director Schluenz recommended enacting it the next day. Council agreed it would go into effect on Wednesday, July 21st.

Member Linquist said he would like to see the proposed hours of the Splash Pad change from 1pm to 7pm.

Member Theisen moved to approve a total watering ban in the City of Waite Park until the DNR removes drought warning and/or reviewed by the City Council, effective July 21st at 12 am. Motion seconded by Member Schulz.

Ayes: Members Miller, Schmitt, Schulz and Theisen

Nays: Member Linquist

Abstain: None

Absent: None

Motion passed 4-1.

Member Theisen moved to approve stopping all irrigation on City property except for Rivers Edge Ballfields and a small area at the Ledge until the DNR removes drought warning and/or reviewed by the City Council, effective July 21st at 12am, and to exempt any residents with new yards that have gotten a permit from City Hall. Motion seconded by Member Schmitt. Mayor Miller questioned if plants, flowers and gardens are exempt from this, and Public Works Director Schluenz stated yes, they are exempt. Motion carried unanimously.

Member Linquist moved to approve reducing the hours of operation of the Splash Pad from 1pm to 7pm, until the DNR removes drought warning and/or reviewed by the City Council, effective July 21st at 12 am, seconded by Member Theisen. Motion carried unanimously.

6.B. NO PARKING OF COMMERCIAL VEHICLES

The City of Waite Park has identified four (4) roadways that have been encumbered by the parking of commercial vehicles. The roadways include Prosper Drive, Progress Road, Park Meadows Drive, and Third Street South.

The safety of the public and the free flow of traffic will be improved by designating these roadways as no parking zones for commercial vehicles. The relevant authority to regulate parking on these roadways arises from Ordinance 61.

Presently, two of these roadways are designated as No Parking Zones for all vehicles. The intent of including these two roadways is to ensure that parking of commercial vehicles remains prohibited in the event the City Council elects to revise the parking designation to allow residential or other limited parking at a future date.

This matter was placed before the Council at a prior meeting. At that time, the Council sought clarification of the standard by which commercial vehicle status would be determined. The Ordinance language was reviewed and determined to contemplate one ton capacity vehicles used for commercial purposes. The Chief of Police confirmed that officers are trained and able to identify vehicles within the meaning of the Ordinance.

6.B. NO PARKING OF COMMERCIAL VEHICLES (Cont.)

City Attorney Storm explained that at the last discussion the question arose about how commercial vehicles will be defined. Storm explained that the City ordinance ties itself to State Statutes and the ordinance defines a commercial vehicle as a vehicle over one ton capacity. City Attorney Storm stated he feels the ordinance has the information needed to accurately define what a commercial vehicle is.

Member Linquist asked for clarification from City Attorney Storm that anything over a one-ton capacity vehicle is a commercial vehicle. City Attorney Storm said the minimum the vehicle would have to be to be considered a commercial vehicle is a one-ton capacity vehicle. Then City Attorney Storm said you would look to see if there is a sign on the vehicle or if it appears to be used for commercial purposes. Chief of Police Benrud stated that the real focus will be on semis and large box trucks.

Chief of Police Benrud explained that to start the process he would like to give these violators warnings. If there is a semi clearly violating State Statute (i.e., blocking a driveway) then they would be issued a ticketed and/or towed. The Police Department would like to issue, initially, a placard that states the vehicle is in violation of new City parking ordinance. Chief of Police Benrud also showed the Council a temporary sign that could possibly be up on the streets as early as tomorrow, if approved.

Chief of Police Benrud also explained that the Police Department is working on putting together a progressive procedure for the ordinance so there is a reasoning behind why someone is booted, towed, and ticketed.

Mayor Miller agreed that a warning is a good way to start and an obvious way to see if they move the vehicle. Mayor Miller and Member Theisen agreed that this must start out as an education process.

Member Linquist asked how far a semi had to be parked away from a driveway. Chief of Police Benrud stated he would have to look to accurately state. He read aloud State Statute and it indicated differing limits depending on what the vehicle was parked nearby.

City Attorney Storm did clarify that the actual change to the fees associated with ticketing is not a part of what is in front of Council for approval. That item will be up for approval at the next City Council meeting. City Attorney Storm also stated that since some of these roads up for discussion are already designated as no-parking zones, each roadway be passed as no commercial parking zones by separate resolutions and motions.

Member Schulz moved to approve the resolution designating Prosper Drive as a no parking zone for commercial vehicles as presented, seconded by Member Theisen. Motion carried unanimously.

(RESOLUTION 071921-02)

Member Theisen move to approve the resolution designating Progress Road as a no parking zone for commercial vehicles as presented, seconded by Member Schmitt. Motion carried unanimously.

(RESOLUTION 071921-03)

Member Theisen moved to approve the resolution designating Park Meadows Drive as a no parking zone for commercial vehicles as presented, seconded by Member Schmitt. Motion carried unanimously.

(RESOLUTION 071921-04)

Member Linquist moved to approve the resolution designating Third Street South as a no parking zone for commercial vehicles as presented, seconded by Member Schmitt. Motion carried unanimously.

(RESOLUTION 071921-05)

6.C. ORDINANCE 56 – BUILDING NUMBERS & KEY BOXES

Due to recent issues at apartment buildings and businesses city-wide not having proper keys for access to the buildings for life safety and firefighting purposes, Fire Chief Aleshire discussed the following with the City Council.

In the past, the City has been successful in securing master keys for apartment buildings to gain access wherever they were needed for life safety and firefighting to be used by both the police department and fire department. Due to property managers deciding without consulting departments to not have master keys anymore, access has been limited for fire investigation as well as delays for other emergencies. Also, keys to gain access to main entrances, mechanical, electrical, laundry, sprinkler riser, fire alarm panel rooms, and fire alarm panels are either non-existent or not current. Within Ordinance 56, Section 56.2 clearly states that the Fire Chief can require all necessary keys needed in support of firefighting, public safety, and lifesaving purposes and this is also consistent with Minnesota State Fire Code. Section 56.2, Subdivision 2 requires key boxes be installed and maintained or ownership shall provide the City with a letter waiving any claims against the City for any damages while gaining access in performance of their duties. Subdivision 3 allows for petty misdemeanor as well as misdemeanor charges for non-compliance.

6.C. ORDINANCE 56 – BUILDING NUMBERS & KEY BOXES (Cont.)

It is the intent of the Fire Chief to enforce these provisions in the interest of public safety as well as the safety of the firefighters and police officers. Lack of keys also prohibits them from doing their work in a timely manner. Getting ahold of caretakers and property owners has also become an issue. Current phone numbers and maintenance on-call numbers are not current, or calls are not answered. Ordinance 56 was recently reviewed and amended by the City Attorney for validity as well as grammatical errors noted by the Fire Chief when reviewing. Discussion included enforcement options and different options for key boxes as well as what can be done to get property management on site in a timely fashion.

City Administrator Johnson also clarified that this amendment would require property owners to sign a waiver that if they do not have the key in the box or the key box in the correct location, that they waive any liability for damages done to gain access to the property.

Member Theisen moved to approve amending ordinance 56 – Building Numbers and Key Boxes and Summary Publication as proposed, seconded by Member Schmitt. Motion carried unanimously. **(ORDINANCE NO. 2021-02)**

6.D. INTERIM USE PERMIT – 10-YEAR GRANITE QUARRY, SAUNDRA FEDOR & JOHNSON MATERIALS, INC. – 2337 GRANITEVIEW RD

This request has been submitted by Johnson Materials, Inc. with permission of the property owner, Sandra Fedor Living Trust, for an Interim Use Permit to allow for a 10-year mining project on property located adjacent to Graniteview Road, addressed as 2337 Graniteview Road.

The applicants have been coordinating with City Staff since earlier this year, when they approached the City regarding the feasibility and viability of the proposed project.

The applicant also operates the nearby current quarrying operation that was approved in late 2018 for a five-year interim use permit, dedicated largely to the I-94 reconstruction work. The total of the proposed areas for quarrying is 22.1 acres, which are estimated to contain an estimated 2.6 million cubic yards of granite and approximately 450,000 cubic yards of overburden. The quarrying plan divides the site into four phases over the lifespan of the permit. The sites are denoted in the presented “Proposed Operations Plan”.

The intent of the applicant, pending approval, would be to begin work later this summer/fall with the first phase of approximately 5.3 acres. Staff would recommend that the initial Interim Use Permit term be limited to 10 years, which could be extended with additional review/approval if needed after that time assuming compliance with conditions of approval and no unaddressed or unresolved concerns or issues.

A copy of the narrative and information submitted by the applicants was presented for review and consideration. The intent is for daytime operation only (6 AM-6 PM), Monday - Friday, with processing operations onsite including mobile office, excavator, front end loader, drill, crusher, and wash plant. There is existing tree barrier on the property to assist in noise attenuation, along with the denoted berming. The proposed circulation plan (denoted in the presented narrative materials provided by the applicant) has been reviewed by the City Engineer and Public Works Director and they are comfortable with the proposed routes. Truck traffic is expected to be approximately 36 trucks/daily. Dust control will be performed onsite as well.

The currently proposed reclamation/end use plan would be to maintain the area as a natural quarry pond at the owner’s request to provide a scenic addition for the property or for potential future development or use as may be determined at the conclusion of mining operations.

After review by City Department Head Staff during standard planning meetings, Staff forwarded the submitted application materials for review by City consultant Bill Welbes, who has performed analysis and monitoring tasks for the City associated with the Martin Marietta quarry as well as review of the previous IUP request for Johnson Materials in 2018. No response was received, but conditions recommended by Mr. Welbes for the previous similar request have been incorporated as part of the recommendation as they have functioned well for that project.

One comment received by Staff was regarding the anticipated future street right-of-way on being denoted as entirely on the property to the north instead of splitting evenly between the properties. Further review of the submitted plans with City Engineer noted that the anticipated right-of-way appears to be appropriate and there is a section located on the Fedor property. The section on the Fedor property is narrower which is to be anticipated in that the right-of-way will need to align with the existing roundabout to the east. The proposed plans have also been provided to the St. Cloud Area Planning Organization (APO) and Stearns County Highway Department staff for their consideration/comment as part of the County Road system future and the potential future Southwest Beltline that is currently under study.

6.D. INTERIM USE PERMIT – 10-YEAR GRANITE QUARRY, SAUNDRA FEDOR & JOHNSON MATERIALS, INC. – 2337 GRANITEVIEW RD (Cont.)

Comments received from County staff were presented. No response was received from the APO. A condition of approval regarding future potential right-of-way needs has been incorporated.

An additional comment/concern was received regarding potential impacts to neighboring wells, given the depth of bedrock in the area. Staff researched and found that there is some protection at the State level for adjacent existing wells through the DNR permitting process. Additionally, sample borings previously performed by the owner of the subject property by an engineering firm indicated that drawing on the existing water supply for the eventual pond is unlikely to negatively impact adjacent properties.

Given the large parcels in the subject area, there are a relatively small number of parcels located immediately adjacent and limited impact to them.

A performance bond in the amount of \$100,000 is recommended by Staff as there is little work to be performed by the applicant as part of the reclamation due to the desire of the property owner to retain the property as a quarry pond upon completion of quarry activities. This is a lesser amount than the bonds associated with previous Interim Use Permit requests, but Staff believes it to be in line with the project and similar to other recent example for a project elsewhere in the state submitted by the applicant for review and consideration.

Staff has no major issues with the applicants' existing operations to the north and questions/concerns that did arise at one point were resolved quickly in their cooperation with City Staff and provision of blasting data records that were required as part of the associated Interim Use Permit approval with that project.

The Planning Commission reviewed the request at their July 13, 2021, meeting and held a public hearing. Several comments/questions were received and responded to by Staff and the applicants during the meeting, but no major issues. The Planning Commission recommended approval of the request with conditions as proposed by Staff.

Staff recommends approval of the Interim Use Permit and adoption of the presented resolution to allow mining and extractive use for a period of ten (10) years subject to the following conditions:

1. Proposed use is subject to all provisions of City Ordinance Section 52, Mining & Extractive Uses.
2. Interim Use Permit for mining shall terminate September 1st, 2031. All mining activity must cease at that time. Reclamation activities shall be complete by September 1st, 2032. Renewal may occur subject to processes established by City Ordinance Section 52. No tacit or inferred approval of renewal is established by granting of initial Interim Use Permit.
3. Property is subject to potential future required right-of-way dedication as determined by Stearns County, likely increased in width from those depicted on submitted phase plans and most likely potentially impacting proposed phases 3 & 4.
4. Hours of operation are limited to Monday-Friday, 6AM – 6PM.
5. No explosives shall be stored onsite.
6. Berming of sufficient height to shield view of operations from adjacent properties and roadways shall be established immediately upon project commencement and be in-place by July 1, 2022.
7. Applicant shall be responsible for any repair costs associated with any verified settlement or damage to adjacent paved streets/roadways due to blasting and mining activities as determined by City Staff or City consultants.
8. A pit development plan shall be submitted for review/approval – including information on proposed number and location of blasts and depths of blasting.
9. Applicant and/or blasting contractor shall maintain minimum of three (3) seismic/air pressure monitoring locations surrounding site to document blast impact. Particle velocities of no more than 0.25 inches per second and 134 db as measured on an adjacent property shall be maintained.
10. A proposed annual estimated blasting schedule shall be submitted to the City of Waite Park annually by March 1st.
11. Applicant shall maintain records of each blasting event for later inspection if required. Records shall include date, location on site, blast seismic data, number of holes, depth of holes, and pounds of explosive per hole.
12. Applicant bears responsibility for any damages and/or injuries associated with any fly rock leaving property limits resulting from blasting events.
13. Mined areas shall adhere to those as identified by the submitted plans.

6.D. INTERIM USE PERMIT – 10-YEAR GRANITE QUARRY, SAUNDRA FEDOR & JOHNSON MATERIALS, INC. – 2337 GRANITEVIEW RD (Cont.)

14. A Stormwater Pollution Prevention Plan shall be submitted for review and approval and adhered to accordingly. Wash racks/grates shall be implanted onsite for all ingress/egress points as part of SWPPP to limit tracking of debris off-property.
15. Traffic circulation plan shall adhere to those reviewed/approved and submitted by applicant unless otherwise agreed to by City staff.
16. Any debris tracked off-property and into public right-of-way shall be removed by the applicant immediately upon notice.
17. Applicant is responsible for securing any additional City, County, or State permitting requirements, including but not limited to requirements for Environmental Assessment Worksheet (EAW), DNR dewatering permitting, and blasting licensing/activity requirements.
18. Applicant agrees that City of Waite Park Staff shall be allowed access to the site as required per ordinance and outlined in submitted project narrative.
19. Any backfilling of site associated with reclamation shall be completed using on clean compatible fill free of debris or contamination. No construction debris, petroleum, chemically impacted soils, demolition debris/waste, paving materials, or other materials shall be used for reclamation or backfilling.
20. Applicant shall maintain and provide record to City on dates, volumes, and source(s) of any fill brought into site for reclamation.
21. A performance bond shall be required in the amount of \$100,000.00 to ensure reclamation. Bond shall be submitted prior to commencement of any activity.
22. Failure to abide by any terms/conditions as set forth in this Interim Use Permit and/or applicable City Ordinance or State of Minnesota law or statute shall be grounds for revocation of Interim Use Permit.

Member Schmitt asked where the entryway would be located. Mr. Johnson explained it would be on the southside of the curve off of Graniteview Road where there is already an existing approach. All traffic would have to exit the property to the left and could not proceed north on Graniteview Road.

Member Linquist asked about the need for water. Mr. Johnson said they may need to put a well in eventually, but for crushing they use about 3,000 gallons in a 12-hour period to suppress the dust. Mr. Johnson believes they can get most of the water from the existing quarry or bring in with a water truck. Mr. Johnson said washing takes more water, but they have a plan to put in ponds for that.

Member Schulz asked about the level of noise during the crushing operation. Mr. Johnson said right at the crusher is about 100 decibels but is mitigated quickly the further away you are. The new crushers are lined with rubber, which eliminates a lot of noise. Member Schulz asked about the dust control. Mr. Johnson stated they spray with water to eliminate the dust.

Member Theisen moved to approve the presented resolution approving an Interim Use Permit for a period of 10 years, with the conditions as presented, seconded by Member Schmitt.

Ayes: Members Linquist, Miller, Schmitt, and Theisen

Nays: Member Schulz

Abstain: None

Absent: None

Motion passed 4-1. **(RESOLUTION 071921-06)**

6.E. SALE OF CITY-OWNED PROPERTY – 1355 HERITAGE DR

City Staff has been coordinating with Chris Wolf, owner of property at 1349 Heritage Drive, regarding potential purchase of adjacent City parcel at 1355 Heritage Drive. City Staff has reviewed this property and determined that there is no current need for the City to retain the parcel as it was previously dedicated to the City to allow for a pass-through street to Heritage Lane. The owner has agreed that the City could retain easement for use/maintenance of the street upon a potential purchase. The City Council has expressed a desire to gradually dispose of "remnant" City properties in cases where feasible.

The parcel has a nominal assessed value of \$300.00 and is not buildable. It has not been maintained by the City and has functioned as an informal extension of Mr. Wolf's property since his purchase of his home. Staff approached the City Council at a previous work session and received an approval to move ahead with preparation for sale of the property.

6.E. SALE OF CITY-OWNED PROPERTY – 1355 HERITAGE DR (Cont.)

Staff would recommend the City sell the property to Christopher and Julie Wolf for a total cost of \$1,938.56, which is the amount of costs incurred by City for preparation of survey, easement, and transfer documents and includes the assessed value of the property. The Wolfs have agreed to provision of easement for the property.

Staff recommends adoption of the presented resolution authorizing the sale. Proposed easement and quit claim documents were also presented for review.

Member Theisen moved to approve the presented resolution approving sale of property at 1355 Heritage Drive to Christopher and Julie Wolf, 1349 Heritage Drive, seconded by Member Linnquist. Motion carried unanimously. **(RESOLUTION 071921-07)**

6.F. 2021 STREET IMPROVEMENTS AWARD

Bids were opened on July 7, 2021 and 3 bids were received. The low bid was in the amount of \$281,265.60 from OMG Midwest, Inc. dba Minnesota Paving and Materials (formerly Hardrives) and compared favorably to the engineers estimate of \$326,484. Staff recommends awarding the project to OMG Midwest Inc.

Member Linnquist asked what projects this included. City Engineer Halter listed the overlay of 1st St S, overlay of Frontage Rd, drainage ditch repairs, and getting rid of the alley by 6th Ave S.

Member Theisen moved to approve the recommendation to award the project as presented, seconded by Member Schulz. Motion carried unanimously.

7. COUNCIL/MAYOR

7.A. REVIEW AND APPROVE BILLS

Member Theisen moved to approve the bills as presented, seconded by Member Schmitt. Motion carried unanimously.

Mayor Miller thanked everyone that worked on and was involved with The Ledge Amphitheater and to have Department Heads reiterate that to their Staff.

8. ADMINISTRATOR UPDATE

The next City Council Meeting is scheduled for August 2, 2021.

ADJOURNMENT

Mayor Miller declared the meeting adjourned at 7:34pm.

Richard E. Miller
Mayor

Karla Virnig
City Clerk/Accountant