

**CITY OF NISSWA  
MINUTES – REGULAR COUNCIL MEETING  
WEDNESDAY, JULY 18, 2018  
7:00 P.M. – CITY HALL**

The regular meeting of the Nisswa City Council was held on Wednesday, July 18, 2018 at 7:00 p.m. at City Hall.

Members Present: Heidmann, Jacobson, Johnson, Krautkremer and Ryan.

Members Absent: None.

Also Present: City Staff Jenny Max, Matthew Hill, Tom Blomer and Desmond McGeough; City Engineer Mark Hallan; City Attorney Tom Pearson; Tom Denaway from Springsted; Nancy Vogt from the Echo; There were approximately 16 people in the audience.

- A. Call to Order** – Mayor Heidmann called the meeting to order at 7:01pm. The pledge of allegiance was recited.
- B. Consent Calendar (NOTICE TO PUBLIC) – All matters listed are considered routine by the Council and will all be enacted by one motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion.**
1. Parks & Recreation Director Report – July 2018
  2. Fire Department Report – June 2018
  3. Pickle Department Report – July 2018
  4. Police Department Report – June 2018
  5. Public Works Director Report – June 2018
  6. Spirits of Nisswa Report – May 2018
  7. Planning & Zoning Administrator Report – July 2018
  8. Presentation of Claims – Check register # 42404 - 42570 totaling \$705,412.79
  9. LG220 Application for Exempt Permit for the Lakeshore Conservation Club
  10. LG220 Application for MN Surveyors and Engineers Society
  11. Special City Council Meeting Minutes from June 27, 2018
  12. Regular City Council Meeting Minutes from June 20, 2018

Motion by Jacobson, seconded by Johnson to approve the Consent Calendar as presented.

Heidmann noted in the Parks Department report there will be future discussion on the Friends of Nisswa Lake Park. Motion carried unanimously.

**C. OPEN FORUM** – None.

**D. REPORTS**

1. City Administrator/Clerk – None.
2. City Attorney

- a. Proposal from Land Design Solutions re: Camp Lincoln Road – Motion by Jacobson, seconded by Krautkremer to approve the Proposal from Land Design Solutions at a cost not to exceed \$1,500. Motion carried unanimously.
3. City Engineer – Hallan noted that Justin Schultz held preconstruction meeting for the 2018 street improvement project at City Hall on July 12<sup>th</sup>. Road work is anticipated to start in late August with substantial completion by the end of September. Schultz also attended the Park Commission meeting and has been assisting with the Gull Lake Trail Project.

#### **E. NEW BUSINESS**

1. Public Hearing for Proposed Tax Increment Financing District No. 1-13 – Motion by Jacobson, seconded by Krautkremer to open the Public Hearing for the Proposed Tax Increment Financing District No. 1-13. Motion carried unanimously.

Heidmann introduced Tom Denaway from Springsted.

Denaway provided an overview for Tax Increment Financing (TIF) and explained the future tax growth generated by a project is captured through the TIF process, which is how challenging projects may become more feasible. The proposed District the City is talking about tonight is a Redevelopment District. Denaway reviewed the costs eligible for TIF, including administrative costs that can be retained by the city. TIF is a future source of revenue and how the City is going to use the revenue. Option 1 is Pay As You Go and Option 2 is through Bonding. With the PAYGo method, the risk is shouldered by the developer, and with Bonds the risk is shouldered by the City. The City's boundary lines is called the Development District. Each subsequent TIF District sets parameters specifically to the project in front of the Council. Tonight the Council is conducting the Public Hearing and if the District is approved it will be certified to the County. The proposed TIF District Plan was sent to Crow Wing County and Brainerd Public Schools. Similar to the levy process, the City can't increase the amount of the District once the Plan is sent to the County and School, but the amount can be decreased.

Denaway next discussed the proposed project details for American National Bank. Denaway noted the property known as Sportland Corners has significantly decreased in value over the past 10 years. Approving the TIF District would freeze the value at its current level and would eliminate any future decline. For this property, the City's portion of the total taxes paid equals 36%.

Denaway discussed the barriers to investment with this project that are different from a green field site. Those barriers create a financial reason to use TIF. The seller sees a value that may not be present to the buyer. With this project, the use of TIF is not closing the gap between the County property valuation and a green field site. Therefore, the City is not over incentivizing based on "bad behavior" by a seller to overinflate the price of a property.

An assumption of a 3.0% interest rate is built into the plan documents, and the term has been decreased from the maximum allowed 26 years to 21 years. Denaway noted the principal amount

will remain the same but the overall term is five years shorter. The City gets the guarantee of a shorter TIF district, and this will get the property back on the tax rolls faster. The shorter term will result in approximately \$29,000 in interest savings for the City.

Krautkremer asked if the County can put the cost of the new intersection at TH 371/CSAH 13 on the City, based on possible increase in traffic with the redevelopment of the Sportland property. Denaway said the County needs to inform the City within 45 days of receiving the Preliminary Plan if there is intent to do so; and only if its outside the scope of the County's 10 year capital improvement plan. There is no concern with this TIF District.

Jacobson asked if the City can delete section 9 of the Resolution since this is a PAYGo. Denaway noted that yes, section 9 can be stricken.

Dawn Musick, 3750 W Linden Blvd – Musick noted she is not against TIF when it is used properly. Does it fill a need for the city? Does it warrant this investment? Don't want to reward bad behavior.

Jim Kraft, Frandsen Bank President – Kraft noted the City is looking at subsidizing a competitor. He would like to see the Council look at the facts when utilizing TIF. If blighted property is a concern, that could be enforced by the City for the property owner to better maintain. Kraft noted the Developer has said they also want to be in Nisswa. Someone could see the total value of the property in the future without a TIF need. Anytime you give up revenue from one source, it has to come from someplace or someone else. Kraft stated he doesn't see the city subsidizing this property for this purpose. Kraft is a past resident of Nisswa and has served on the Planning Commission. He doesn't have an issue with TIF and supports development in general. Does this fit within the plan of the City?

Patrick Smith, American National Bank – Smith thanked the Council for walking through the process with him. If this was an easy site to develop, it would have been done a long time ago. Smith's first goal is to bring a highly useful and productive community bank to Nisswa. His second goal is that they really want to do it in this location. This cannot be done without the pursuit of TIF. Smith spent a lot of time with the seller on the phone and worked hard to get the purchase price as low as possible; however, it is still a really big number. Smith noted that Mike French showed an interest to incorporate another successful business into this project.

Mike French, Stonehouse Coffee – French said he was honored to have PJ approach him on this project. We are a family run business and we do it well. French understands the concerns about TIF funding. Stonehouse Coffee employs 24 at a minimum, sometimes it's more. French said we give back to the Community and have been here since 1983. French said he thinks they would be a good addition and would bring a new demographic to the area.

Matt Hansen, 3750 W Linden – Hansen noted he has similar thoughts as Musick. Is it ok for the city to let this building deteriorate without any intervention? Another bank and coffee shop seems to go in the wrong direction. Hansen noted he got the feeling that the bank would come out pretty darn good with this investment. The project would be funded by the taxpayers of Nisswa and the

Council should be financially prudent. Hansen said the current owner should be pressured by the City to fix up the property.

Bob Sefkow, works with PJ Smith – Sefkow provided a summary from the Bank’s point of view. If TIF is not available, the project does not go forward. Alternative number one is to say no, and what is the future going to hold? Alternative number two is to say yes and see a real-live project take place. The Council can vote for the status quo and hope the future is different from the past, or move forward and create a new project immediately that can be implemented.

Max noted there was one letter received from Patrick Wiebusch, Owner of Steamboat Properties and RE/MAX Lakes Area Realty. Wiebusch expressed support for the TIF project in his letter.

Jacobson stated he thinks the Council would like to see the corner developed, and he echos concerns expressed; \$570,000 is a lot of money for all jurisdictions. These are taxpayer funds, not City funds. Jacobson said it is a simple choice: am I willing to pay those funds to develop this site? Currently no, I am not. Jacobson expressed gratitude that the bank wants to come to Nisswa.

Johnson noted the risk is that if we do nothing we will continue to see a decrease in revenue. The seller is unrealistic on the property price and it continues to decrease in value. To assume someone will just come buy it, or the seller will come to reason the price is over-stated is unrealistic. The last 10 years has shown that they aren’t willing to change. It’s an opportunity to freeze our revenue and get rid of an eye sore. Johnson asked if condemnation is an option if we do nothing? Right now he is leaning towards yes.

Krautkremer said he has struggled with this decision more than any other. Krautkremer noted he thinks it’s an appropriate use of TIF. The seller has demonstrated they aren’t willing to negotiate. If the property sits another five years I think we made the wrong decision. I think the bank reinvesting back in the community is a good thing. Where I struggle the most is the total cost and the interest expense involved. The City has to look at the total tax burden for all taxpayers, not just the Nisswa impact. It would be a long road to force compliance.

Ryan stated he has also struggled with this decision. It’s a cost to the taxpayers and is not the Council’s money. The City has also had a lack of economic development in recent past. The seller doesn’t need the money or won’t change her mind. Can the building be rehabilitated? Is this part of a larger comprehensive plan discussion? I’ve leaned both ways but at some point in time we have to let people know that Nisswa is open for business. It’s the same with roads - we all work at it together. I don’t like the number, but I like the corner even less. Ryan said he hasn’t made up his mind yet.

Johnson asked the Council – what is the cost of doing nothing?

Heidmann said this is not a difficult decision for him. I have talked to three dozen citizens and not one is in favor of using TIF financing at this location. Are we enforcing our Planning and Zoning regulations as we should? Our regulations do allow for the City to do the repairs, and assess the

costs to the property taxes. Yes it is an eye sore, no doubt. Is there a need to give TIF to any business there? If there was a true need then that would be a good use of TIF. The comments I received were that there's plenty available land for this project. The City should consider if it's the best use of the land before granting TIF funds. Are there new jobs created? Not many. The City can use its current zoning regulations to clean up the property.

Johnson asked if the City incurred the cost to clean it up, and assessed to the property taxes, does that then add value to it and drive the price higher?

Tom Pearson noted it can be a long legal process and there is no magic fix. It is also a contestable court process, and is usually hotly contested.

Jacobson said the courts are very reluctant to allow a City to dismantle a property. This is another question after we decide on the TIF District.

Johnson said he thinks it would create some new jobs, possibly 20-40 jobs.

Krautkremer noted he has to look down the road and at the numbers. This developer has the wherewithal to do this project and get it completed.

The Council engaged in further discussion.

Motion by Jacobson, seconded by Heidmann to deny the Resolution Approving Modification to the Development District No. 1, Establishing Tax Increment Financing District No. 1-13 within Development District No. 1 and Approving the Tax Increment Financing Plan Therefor and Authorizing Execution of a Development Agreement. Discussion: Ryan noted there could be new jobs and everything is a start. Heidmann asked does the City want to move forward with TIF and is it the highest and best use of the land. Motion failed 2:3 with Johnson, Krautkremer and Ryan opposed.

Motion by Johnson, seconded by Ryan to approve the Resolution Approving Modification to the Development District No. 1, Establishing Tax Increment Financing District No. 1-13 within Development District No. 1 and Approving the Tax Increment Financing Plan Therefor and Authorizing Execution of a Development Agreement with the removal of section 9 Interfund Loans. Motion passed 3:2 with Mayor Heidmann and Councilmember Jacobson opposed.

2. Nisswa Strong Event Request to Conduct a 1K Race on August 1, 2018 – Motion by Jacobson, seconded by Johnson to approve the Nisswa Strong Event Request on August 1, 2018. Motion carried unanimously.
3. Letter from Alan and Janice Grinde re: Sanitary Sewer Backup Request – Max provided some history on the sewer backup that occurred at the Grinde home, and stated that Mr. and Mrs. Grinde are requesting the City reimburse them for the costs incurred as a result of the backup in the amount of \$37,261.58. Blomer said the pipe is eight feet in the manhole and that

unfortunately the frost levels went down beyond eight feet. It was the only burst pipe the City had this year. The line comes through the main lift station, causing a large amount of flow. Blomer said the step station is where the break occurred, after the check valve inside the tank.

Janice Grinde addressed the Council and said they are not at their Nisswa home from November to April. Grinde gave a summary of the events that took place. The frost was deep this year. Grinde noted they just bought three acres across the road and they don't want to walk away from the house. She said she blames the insurance company for not backing up the City on providing coverage on this. Johnson asked if Grinde pursued her own homeowners insurance. Grinde said they did not have the coverage needed for a sewer claim. They now have a policy of \$25,000, and are having People's Security install a backup alarm.

Jacobson said who is at fault? Neither party. The only option for the Grinde's is to sue if the City denies their request.

Pearson stated the Council shouldn't carry this discussion any further if lawyers are involved or mentioned as possibly getting involved. Pearson recommended not deviating from the Insurer's recommendation. It would not be prudent to continue additional conversation.

Grinde asked what is the difference in other situations involving sewer backups?

Motion by Jacobson, seconded by Ryan to table this matter for two months and request Attorney Pearson to do additional investigation into this matter. Pearson said he doesn't suggest tasking him with anything. His advice is to stand behind the City's Insurer at this time. Jacobson withdrew his motion and Ryan withdrew his second.

Motion by Jacobson, seconded by Ryan to concur with the League of Minnesota Cities Insurance Trust on the denial of the claim submitted by Alan and Janice Grinde. Motion carried unanimously.

4. Recommendation from Planning Commission re: Request Authorization for City Engineer to Assess Structure Violation at 26130 Birch Avenue - McGeough described the complaint and provided the details to the Council. The request before Council is to authorize the city engineer to do an analysis of the structure subject to the property owner's concurrence. Jacobson said he would like to get input from the city engineer before issuing any permits for this property. Krautkremer asked if the City moves forward would we have to have an engineer look at it? Pearson described the nuisance abatement process and that would be helpful to include an engineer's analysis if the property owner contested the issue. The City does need to seek the property owner's consent first. Hallan noted that a preliminary cost assessment would be approximately \$800-\$1,200. Motion by Ryan, seconded by Jacobson to authorize Desmond McGeough to conduct an assessment of the structure at 26130 Birch Avenue, pending approval by the property owner.

Heidmann said it's ironic for the Council to be unwilling to spend money on the TIF property that was discussed earlier but is now willing to spend money on this property.

Krautkremer noted this house is missing a roof whereas the Sportland property is more stable. Krautkremer would like to see the City work with the property owner to get this corrected.

Heidmann asked if the City has the authority or can we do much with this property?

Jacobson noted this is the first step in the proper legal process. Pearson confirmed that yes, there's a way.

Krautkremer expressed a safety concern with kids having access to property.

Johnson said to call the question. Motion carried unanimously.

5. Recommendation from Planning & Zoning Commission re: Grotkin Metes and Bounds Subdivision - McGeough provided the background information and noted the Planning Commission recommends approval for the subdivision. Krautkremer asked if there are any future plans for the property.

Jack Grotkin, 21478 Tall Timbers Road, noted his future plan is to build a storage building that will look like a house and would basically duplicate the look of his home.

Motion by Jacobson, seconded by Krautkremer to approve the Metes and Bounds Subdivision 010-18 for Jack Grotkin as presented. Motion carried unanimously.

6. Recommendation from the Gull Lake Trail Steering Committee re: Accept Change of Gull Lake Trail Location-Lower Roy Lake Road – Johnson noted that initially the Gull Lake Trail Steering Committee made a recommendation for the trail to follow along County Road 77. Matthew Hill and Ross Krautkremer met with the property owners along County Road 77 and after discussion, the Committee has decided to not pursue that option. The Committee is now recommending a change to move the trail location along Lower Roy Lake Road. Motion by Krautkremer, seconded by Jacobson to approve the change of the Gull Lake Trail to the Lower Roy Lake Road location as presented. Motion carried unanimously.
7. Recommendation from the Parks & Recreation Commission and the Gull Lake Trail Steering Committee re: Accept Two Additional Members to the Gull Lake Trail Steering Committee – Johnson noted that a seat on the Committee was vacated and the Committee received applications from two qualified individuals. The Committee would like to add both of them as members. Both members have engineering backgrounds. Motion by Jacobson, seconded by Johnson to accept William Meyer and Larry Petron as members of the Gull Lake Trail Steering Committee. Motion carried unanimously.

8. Recommendation from Public Works Committee re: Accept 2018 Patching and Crack Filling Quote – Ryan noted the only quote received for annual patch and crackfilling came from Anderson Brothers. The cost is slightly less than it has been the past few years and is also under budget. Motion by Krautkremer, seconded by Johnson to approve the quotes for patching and crack filling from Anderson Brothers as presented, at a cost not to exceed \$65,000. Motion carried unanimously.
9. Recommendation from Public Works Committee re: Sale of Surplus Equipment – Motion by Krautkremer, seconded by Jacobson to declare the items as presented as surplus equipment. Motion carried unanimously.
10. Resolution Adopting the Crow Wing County All-Hazard Mitigation Plan – Motion by Jacobson, seconded by Ryan to adopt the Resolution Adopting the Crow Wing County All-Hazard Mitigation Plan as presented. Motion carried unanimously.
11. Resolution Approving State of Minnesota Master Subscriber Agreement on Behalf of the Office of the State Court Administration with the City of Nisswa on Behalf of Its City Prosecutor for Access to the Court Data Services System for Governmental Agencies – Motion by Jacobson, seconded by Johnson to approve the Resolution Approving State of Minnesota Master Subscriber Agreement on Behalf of the Office of the State Court Administration with the City of Nisswa on Behalf of Its City Prosecutor for Access to the Court Data Services System for Governmental Agencies as presented. Motion carried unanimously.
12. Memo from Jenny Max re: New Policy and Application for City Commissions and Committees – Jacobson noted he has some questions for the City Administrator and would like to table this item until next month. Ryan noted he also has a few questions. Motion by Krautkremer, seconded by Johnson to table this item until the August Council meeting. Motion carried unanimously.
13. Recommendation from Personnel Committee re: Cellular Devices Policy – Motion by Krautkremer, seconded by Ryan to approve the Cellular Devices Policy as presented. Motion carried unanimously.
14. Recommendation from Personnel Committee re: Approve Medica as the City’s Health Insurance Provider as of September 1, 2018 – Max noted this action was taken at the Council Meeting held earlier at 6pm. The Council did approve switching to Medica as the City’s Health Insurance Provider effective September 1, 2018.
15. Personnel Updates for July 2018 – Motion by Ryan, seconded by Krautkremer to approve the Personnel Updates for July 2018 as presented. Motion carried unanimously.
16. Resolution Accepting Donations – Motion by Jacobson, seconded by Krautkremer to approve the Resolution Accepting Donations. The Council expressed their appreciation to the Lions Club for supporting the fire department. Motion carried unanimously.

**F. OLD BUSINESS**

**G. COUNCIL REPORTS**

1. Mayor – None.
2. Council Members – Johnson noted that the TIF issue was a tough decision and that he appreciates how the Council handled the discussion. Ryan wanted to request that the Planning Commission think more about the color palette ordinance and involve businesses in the decision-making process. Ryan would like to see the same process used that was done when reviewing the sign ordinance.

**H. ANNOUNCEMENTS & UPCOMING MEETING DATES**

1. August 2, 2018 – Parks & Recreation Advisory Committee Meeting at 5:00 P.M.
2. August 7, 2018 – Planning & Zoning Commission Meeting at 9:00 A.M.
3. August 8, 2018 – Public Works Committee Meeting at 5:00 P.M.
4. August 9, 2018 – Gull Lake Trail Meeting at 5:00 P.M.
5. August 14, 2018 – Primary Election –No public meetings between 6:00 P.M. and 8:00 P.M.
6. August 15, 2018 – Regular City Council Meeting at 7:00 P.M.

- I. ADJOURN** – There being no further business, Motion by Krautkremer, seconded by Johnson to adjourn the regular Council meeting at 9:35pm. Motion carried unanimously.

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Fred Heidmann, Mayor

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Jennifer Max, City Administrator/Clerk