

**CITY OF NISSWA
MINUTES – REGULAR COUNCIL MEETING
TUESDAY, SEPTEMBER 21, 2021
7:00 P.M. – NISSWA CITY HALL**

The Regularly Scheduled Nisswa City Council meeting was held Tuesday, September 21, 2021, at 7:00 p.m. at City Hall. This meeting was also available on *YouTube Live*.

Members present: John Ryan, Mark Froehle, Don Jacobson, Ross Krautkremer, Mark Utzinger.

Members absent: none.

City staff present: Jenny Max, Amber Moon Peterson, Brian Farrell, Brittney Cotner, Tom Blomer, Kiki Lindbery.

Also Present: City Engineer-Joe Dubel; City Attorney-Tom Pearson; Dan Determan - Echo Newspaper.

Audience members: 23 members of the public were also present.

- A. Call to Order** - John Ryan called the meeting to order at 7:00PM. The pledge of allegiance was recited.
- B. Approve Agenda** - Motion by Jacobson, seconded by Utzinger, to approve the Agenda for the Regularly Scheduled September 21, 2021 Council Meeting. Motion carried unanimously.

C. Consent Calendar

1. Fire Department Report – August 2021
2. Parks and Recreation Report – September 2021
3. Pickle Department Report – August 2021
4. Planning & Zoning Department Report – September 2021
5. Police Department Report – August 2021
6. Public Works Report – September 2021
7. Spirits Report – August 2021
8. Spirits Report – September 2021
9. Presentation of Claims – Check register #48564-48739 totaling \$1,563,090.54
10. Police Donation Resolution 21-17
11. City Council Special Meeting Minutes from April 15, 2021
12. City Council Workshop Minutes from August 10, 2021
13. City Council Workshop Minutes from August 17, 2021
14. City Council Meeting Minutes from August 17, 2021
15. City Council Special Meeting Minutes from August 31, 2021
16. City Council Workshop Minutes from August 31, 2021
17. Personnel Updates September 2021
18. Resolution to Establish Parks and Recreation and Community Center Capital Reserve Account

Motion by Krautkremer, seconded by Utzinger to approve the Consent Calendar as presented. Motion carried unanimously.

D. Open Forum: Public Comment – none.

Department Presentations:

1. Golf Cart Pilot Project Results – Amber Moon Peterson updated the Council about the new Golf Cart Ordinance and how it has been received by City residents, tourists and visitors. She noted that a total of 39 permits have been issued so far, and that number includes numerous permits for golf carts at Grand View properties. Observation and monitoring of golf cart use within the City limits was focused upon use of designated parking – which most do not use, and speeds. She noted that the recent online survey regarding Nisswa’s roads and trails had 37 respondents. Of those who took the survey, only 6% noted that they feel that the trail system is unsafe; however, almost 25% of respondents believe that the City’s Roads are unsafe. Questions were fielded and discussion commenced regarding future trail expansions. Safety, clarity and consistency are key; it is likely that the Gull Lake Trail project will change user patterns near Lower Roy Lake Road and beyond. An additional survey will be conducted next year. Council Members agreed that this policy has been well executed and carefully considered by City Staff, and well received by the public.

2. Spirits of Nisswa Department Annual Presentation – Brian Farrell presented an annual overview of Spirits Liquor Store operations. Farrell noted that employees are doing a great job, and sales continue to be high with monthly goals and projections exceeding budget. It may be interesting to note what impact (if any) the discontinuation of extra compensation for unemployment may have upon sales moving forward. Farrell noted that the point-of-sale software at the store has not been performing well and a change could be necessary. He met with a few different companies, and is working on getting some estimates for a new system. Farrell also noted that he'd like to incorporate a new pay structure for staff and job descriptions in the future, as well as a new online Learning Management System so that employees can become more knowledgeable about products, particularly wines. Jacobson asked Farrell to explain to the audience why the City has a Municipal Liquor Store and what is done with the revenues generated from sales. Farrell noted that the Municipal Liquor sales typically generate more than \$200,000 in revenue for the City, and that this revenue is put back into the community by helping to lower property taxes for residents. In addition, a new lease agreement is being negotiated with Schaefer's. Working on new promotions with the Chamber also remains a priority. Farrell noted his appreciation of the City Council Members and that he is proud to work for the City of Nisswa.

E. Reports:

1. **City Administrator** – none; Max noted that her reports and updates will come later in the meeting.
2. **City Attorney**
 - a. City Attorney Update re: Nelson Ford Lawsuit – City Attorney Pearson explained this class-action lawsuit which involved over-charging some City Police Departments for new squad cars. He noted that this affected (3) new vehicles purchased by the City of Nisswa Police Department. Compensation for the City of Nisswa after all fees, court costs, etc., will be just under \$500. Motion was made by Jacobson, seconded by Utzinger to accept the City Attorney recommendation regarding the Nelson Ford lawsuit and to accept the proposed settlement of \$474.18. Motion carried unanimously.
3. **City Engineer** – none.

F. New Business:

1. Clark Lake Conservation Association – Members of the CLCA were present to discuss and appeal the Planning Commission's previous decision pertaining to the Pine Trails Development. Audience members Jane Ahrens, MJ Bauer, and Mark Severson, all spoke about following the Ordinance and upholding the original CUP conditions, one of which stated no docks were to be allowed on Outlot C. City Attorney Pearson explained that the Final Plat of this development was approved, though Outlot C had been split into two lots – one riparian, and one non-riparian. The riparian lot on the Final Plat was labeled as Outlot H. CLCA members maintain that this should be an enforcement issue, and request that the 2006 Final Plat Condition that there be no dock on the Outlot be upheld. Discussion commenced. Council Members Ryan, Utzinger, Krautkremer, and Jacobson agreed that the existing dock location is not conducive of supporting motorized watercraft and that it has been placed primarily for the residents to be able sit and enjoy the lake. Discussion continued regarding whether this is within the jurisdiction of the DNR or the City. The DNR recently granted a permit to allow some vegetation clearing within the water. Pearson noted that the language of the Final Plat does not place any conditions which restrict dock placement or that do not allow a dock to be placed, upon Outlot H. Suggestions for the Homeowner's Association of the plat included adding signage to the dock noting motorized watercraft are not allowed, and updating the Declaration or Covenants to include the amended CUP language and rules regarding the dock. City Ordinance language also needs to be updated to accurately reflect Minnesota State Shoreland Rules. A letter was received from Rob Stefonowicz, on behalf of the developer. Motion by Jacobson, seconded by Krautkremer to concur with the Planning and Zoning Commission and uphold the CUP and Conditions of approval for the Pine Trails Development, as amended, and to deny the appeal from the Clark Lake Conservation Association. No further discussion. Motion carried 4-1; Froehle opposed.

2. Resolution Approving Preliminary 2021 Tax Levy Collectible in 2022 – Motion by Jacobson, seconded by Utzinger to adopt the Resolution approving the Preliminary 2021 Tax Levy Collectible in 2022, in the amount of \$2,873,950. Motion carried unanimously.
3. Set Truth in Taxation Meeting Date – Motion by Froehle, seconded by Jacobson, to hold the Truth in Taxation Meeting on December 21, 2021, beginning at 6:30PM. Motion carried unanimously.
4. Approve Estimate from CanAm Tactical K9 LLC – Motion by Utzinger, seconded by Froehle, to approve the estimate from CanAm Tactical K9 LLC in the amount of \$15,000. Motion carried unanimously.
5. Recommendation from Planning Commission - Roy's Landing Preliminary Plat – Cotner noted that this property may have changed hands recently, and that recent emails and requests regarding the current applications for this property have gone unanswered. The Statutory deadline to make a decision regarding these applications is nearing. Motion by Krautkremer, seconded by Jacobson, to accept the Planning Commission recommendation to deny Preliminary Plat 008-21 for Roy's Landing, including the Findings of Fact for denial, as presented. Motion carried unanimously.
6. Recommendation from Planning Commission - Alluring Pines West Final Plat – Motion by Jacobson, seconded by Froehle, to accept the Planning Commission recommendation to approve the Final Plat Plat Alluring Pines West, including the Findings of Fact and the Conditions of approval, as presented. Motion carried unanimously.
7. Recommendation from Planning Commission - Ordinance revision - CUP Language – Cotner noted that the intent of this recommended Ordinance revision is to remove ambiguity in the Ordinance language by excluding any PUD applications from the two-year expiration requirement because PUD's usually take more than two years to complete. Motion by Jacobson, seconded by Utzinger, to accept the Planning Commission recommendation for an Ordinance amendment per Conditional Use Permit language, as presented; and to authorize the City Clerk to publish a Summary of this revision in the local newspaper. Motion carried unanimously.
8. Recommendation from Planning Commission - Ordinance Revision – Planning Commission seat requirements – Discussion ensued regarding the Planning Commission's recommendation that the City Council amend the City Ordinance so that Nisswa business owners be allowed to serve on the Planning and Zoning Commission, even if they do not live within the City Limits of Nisswa. Cotner drafted proposed Ordinance amendment language. Discussion commenced and Public Testimony was allowed. Trish Van Pilsum voiced concerns that by allowing only Business Owners to be part of this Ordinance revision it would exclude other non-resident groups who might be interested in serving. She questioned the fairness of allowing only residents and certain non-residents who are business owners in the City of Nisswa to apply and serve on the Planning Zoning Commission. She urged the Council to also allow all non-homestead property owners the opportunity to serve. Brad Birkeland expressed his opposition to this proposed Ordinance revision noting that business interests do not align with the conservation and protection interests of this area. He maintained that approval of this revision is a potential conflict of interest which favors business owners over residents, and he desires preservation of the clean water of this area. Discussion continued regarding the requirements and process of Commission selection. Written Comments received included those from Brad Birkeland, Ginger Olson, and Trish Van Pilsum. Motion by Jacobson, seconded by Krautkermer, to accept the Planning Commission recommendation to approve the Ordinance revision regarding Planning Commission seat requirements, as presented, and to authorize the City Clerk to publish a Summary of this revision in the local newspaper. Motion carried unanimously.
9. Recommendation from Public Works Committee - Road Standard Update – Tom Blomer was present to explain the proposed new Road Standard. He noted that the Road Standard has been updated and simplified and will apply to all roads within the City of Nisswa - public and private, residential and commercial. A variance will be necessary in order to alter from this Road Standard. Discussion commenced regarding language revisions in the Memo to emphasize that this Road Standard is mandated and required. All new proposed development must comply with all adopted Road Standards. Motion by Utzinger, seconded by Krautkermer, to accept the recommendation of the Public Works Committee and approve the updated Road Standard as it applies to all new road construction in the City of Nisswa. Motion carried unanimously.

10. Payment Application #13 from Eagle Construction for \$231,280.29 – City Engineer Joe Dubel explained the payment request. Motion by Utzinger, seconded by Froehle, to approve Payment Application #13 to Eagle Construction in the amount of \$231,280.29, as presented. Motion carried unanimously.
11. Change Order #10 from Eagle Construction for 2020 WWTF Improvements - City Engineer Joe Dubel explained the Change Order and clarified questions from Council Members. It was noted that this change order is a decrease in the overall contract price. Motion by Froehle, seconded by Utzinger, to accept Change Order #10 from Eagle Construction in the amount of \$-51,260 for 2020 WWTF Improvements, as presented. Motion carried unanimously.
12. Change Order #11 from Eagle Construction for 2020 WWTF Improvements - City Engineer Joe Dubel explained the Change Order. Motion by Krautkremer, seconded by Utzinger, to accept Change Order #11 from Eagle Construction in the amount of \$12,385 for 2020 WWTF Improvements, as presented. Motion carried unanimously.
13. Resolution Approving Mediated Settlement Agreement and Release of Claims - Motion by Jacobson, seconded by Krautkremer, to accept the Resolution to approve the Mediated Settlement Agreement and Release of Claims between the City of Nisswa and Brandon Rothwell, as presented. Motion carried unanimously.
14. Memo from Personnel Committee re: City Administrator Annual Evaluation - Motion by Krautkremer, seconded by Utzinger, to accept the annual performance review and authorize a step increase for City Administrator Jenny Max, retroactive to August 21, 2021, as presented. Motion carried unanimously.
15. Proposal from Schlenner Wenner & Co. - 2021 City of Nisswa Audit Services – City Administrator Jenny Max noted she is requesting a one-year agreement with the City’s current audit firm as the City will still be subject to the additional single audit requirement for the sewer expansion. Max anticipates that following the 2021 audit, the City can then solicit proposals for audit services. Motion by Jacobson, seconded by Utzinger, to accept the proposal from Schlenner Wenner & Co to complete the 2021 City of Nisswa audit. Motion carried unanimously.
16. Discussion on Codification Final Draft from Municode. Max updated the Council and noted that the City is in the final stages of the Codification process. No Action is requested by the Council at this time. The final draft of the Codification will be forwarded to Council Members, and proposed Adoption by the Council will occur at a later date.

G. OLD BUSINESS – none presented.

H. COUNCIL REPORTS

1. Mayor – nothing presented.
2. Council Members – nothing presented.

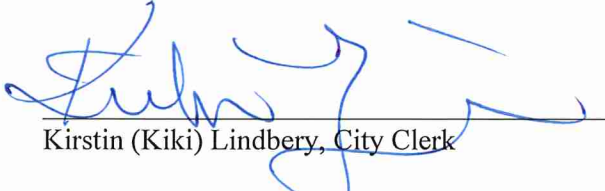
Mayor John Ryan announced upcoming City Council Meeting dates, and noted that all meeting information is located on the City Website.

ADJOURN – There being no further business, Motion by Utzinger, seconded by Froehle to adjourn the regular Council meeting at 9:13p.m. Motion carried unanimously.

Respectfully Submitted,



John Ryan, Mayor



Kirstin (Kiki) Lindbery, City Clerk