

**CITY OF SHOREVIEW  
MINUTES  
REGULAR CITY COUNCIL MEETING  
June 1, 2009**

**CALL TO ORDER**

Pursuant to due call and notice thereof, a regular meeting of the Shoreview City Council was called to order by Mayor Martin on June 1, 2009, at 7:02 p.m.

**PLEDGE OF ALLEGIANCE**

The meeting opened with the Pledge of Allegiance to the flag.

**ROLL CALL**

The following members were present: Mayor Martin; Councilmembers Quigley, Wickstrom and Withhart.

Councilmember Huffman was absent.

**APPROVAL OF AGENDA**

A brief discussion of the date for the July 6, 2009 Council meeting was added to the *Special Order of Business* portion of the meeting.

MOTION: by Councilmember Wickstrom, seconded by Councilmember Withhart to approve the June 1, 2009 agenda as revised.

ROLL CALL: Ayes - 4 Nays - 0

**PROCLAMATIONS AND RECOGNITIONS**

There were none.

**CITIZEN COMMENTS**

**Mr. Tim Pratt**, Chair, Environmental Quality Committee, 5970 Pheasant Drive, stated that Friday, June 5, 2009, is the deadline to apply for the Green Community Award. This award was established to recognize people who are using Best Management Practices to manage stormwater on their property with the use of rain gardens, rain barrels, lake buffer strips, or use of native plants. The application is available on the City's website, or it can be picked up at City Hall. The application is much simpler this year and has been reduced to a two-sided application. The new and previous winners will be announced at the *Slice of Shoreview*.

**Mr. Mike Baker** gave an update report on the *Slice of Shoreview* plans. A kickoff event at Kozlak's will be the afternoon of July 22, 4:00 to 6:00 p.m. He invited all Councilmembers to attend. On Thursday, July 23, there will be a golf tournament at Island Lake. Applications should be submitted directly to Island Lake Golf Club. The event includes supper and drinks. To date, another \$5,000 has been raised for the *Slice*. The website is up and running ([sliceofshoreview.com](http://sliceofshoreview.com)) and 300 cards have been sent to Shoreview businesses to raise the remaining money for the budget. The committee is still looking for a Grand Marshal for the parade. Please let the committee know of anyone for this position.

### **COUNCIL COMMNETS**

#### **Mayor Martin:**

Congratulations to Pinewood Elementary School, which has been named a School of Excellence. Only nine elementary schools in the state have been recognized with that achievement.

The Farmers' Market opens Tuesday, June 2, 2009, from 3:00 to 7:00 p.m. The Shoreview Farmers' Market has been recognized as one of the best for homegrown produce in the state. It is located in the lower parking lot at the Community Center.

The skate park has been renovated with new equipment. Youth helped to design it, and Mayor Martin was pleased to note that every day 30 to 40 young people are using it.

#### **Councilmember Withhart:**

Wednesday, June 10, 2009, will be the first of a 10-week Concert in the Commons summer music series. It is held outdoors behind the Community Center in the picnic pavilion. The first week will be music from Vic Volare.

#### **Councilmember Quigley:**

Commended staff on the new rental property inspection form. Ms. Nordine stated that the form is given to property owners at the time they apply for a rental license so they know what the rental inspection consists of.

#### **Councilmember Wickstrom:**

Commended Eagle Scout John Oltman, who planted over 2000 plants behind the Community Center and also participated in the project to eradicate Buckthorn.

The Green Communities meeting will be Wednesday, June 3, 2009, at 7:00 p.m., at the Community Center. There will be a speaker on global warming. Anyone interested is welcome.

**CONSENT AGENDA**

The following items were pulled for separate discussion: No. 1, May 18, 2009 City Council Meeting Minutes; and No. 9. Approval of Liquor License Renewal.

On page 4 of the Council Minutes, Mayor Martin requested the fourth full paragraph be amended to note that two residential properties at Sitzer Park were previously purchased in anticipation of fully developing the park. After waiting 20 years, the park can now be completed.

Councilmember Wickstrom verified that the liquor store license being renewed is not the liquor store that is of questionable distance from a nearby school.

MOTION: by Councilmember Withhart, seconded by Councilmember Quigley to adopt the consent agenda of June 1, 2009, approving the necessary motions and resolutions:

1. May 18, 2009 City Council Meeting Minutes
2. Receipt of Committee/Commission Minutes:
  - Human Rights Commission, March 25, 2009
  - Economic Development Authority, April 13, 2009
  - Economic Development Commission, April 21, 2009
  - Environmental Quality Committee, April 27, 2009
  - Planning Commission, April 28, 2009
  - Bike and Trails Committee, May 7, 2009
  - Economic Development Commission, May 19, 2009
  - Public Safety Committee, May 21, 2009
3. Verified Claims in the Amount of \$502,575.08
4. Purchases
5. Approval of Application to Conduct Excluded Bingo – *Slice of Shoreview*
6. Award of Bid – 2009 Street Seal Coat, CP 09-09
7. Amendment No. 1 to Sixteenth Rider to Agreement with St. Paul Board of Water Commissioners
8. Approval of Renewal of Joint Powers Agreement with Ramsey County for Curbside Recycling Funding
9. Approval of Liquor License Renewal – Mongkok Restaurant

ROLL CALL: Ayes – 4

Nays – 0

**PUBLIC HEARING****NPDES STORM WATER POLLUTION PREVENTION PROGRAM ANNUAL REPORT****Presentation by Assistant City Engineer Tom Wesolowski**

The National Pollution Discharge Elimination System (NPDES) is part of the federal Clean Water Act of 1987. In 1990, the Environmental Protection Agency (EPA) developed phase one of the plan and the phase two plan followed in 1999. The permitting authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The MPCA requires cities to obtain a permit to discharge storm water to waters of the state and submit an annual report. The City has developed a Surface Water Pollution Prevention Plan (SWPPP) that includes Best Management Practices (BMPs) and measurable goals. Minimum control measures required include: 1) public education and outreach, 2) public involvement and participation, 3) illicit discharge, detection and elimination; 4) construction site runoff control; 5) post-construction site runoff control; and 6) pollution prevention/good housekeeping.

In 2008, public education included *ShoreView* articles on what homeowners can do to reduce runoff pollution to ponds and lakes and information on composting and hazardous waste. Brochures are available at City Hall. Each year the City conducts a Cleanup Day in the spring and in the fall. There is a website with information for homeowners. New ordinances have been developed to regulate construction site runoff, as required by the MPCA. Goals the City will be working on include illicit discharge, detection and elimination. Additional training for staff will address detection and a process for infiltration projects to know when infiltration is the right approach. Vulnerable drinking water areas will also be specifically looked at.

Councilmember Wickstrom requested that the report include the Green Communities Awards and tours.

Mayor Martin opened the public hearing at 7:29 p.m. There were no comments or questions from the public.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Withhart to close the public hearing at 7:30 p.m.

**ROLL CALL:**                      Ayes – 4                      Nays – 0

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Withhart to direct the Public Works Director to submit the final NPDES Phase II Storm Water Pollution Prevention Program 2008 Annual Report to the Minnesota Pollution Control Agency reflecting the receipt of any comments from the Public Hearing of June 1, 2009.

ROLL CALL:                   Ayes: Withhart, Quigley, Wickstrom, Martin  
                                  Nays: None

## GENERAL BUSINESS

### **AUTHORIZATION TO ALLOW TWO DRIVEWAY CURB CUTS – 442 HORSESHOE DRIVE**

#### **Presentation by City Planner Kathleen Nordine**

The property owners propose to tear down the existing home and construct a new home. The application shows a design for two curb cuts at the roadway for separate driveways to a two-level garage. The lower narrower drive would face the street; the upper drive will face north. The property is a substandard riparian lot with a lot width ranging from 55 feet to 75 feet at the shoreline.

The design complies with the 5-foot side setback requirement. One driveway would be 10 feet wide and one would be 11 feet in width. The maximum width of a driveway is limited to 24 feet. The total width of the two driveways would comply with the ordinance. City Code limits one curb cut per dwelling on interior lots with a width of less than 120 feet. The reason for the proposed design is that it conforms to the existing grade of the property and minimizes grading impacts on the site. Maintenance of the existing grade is encouraged in the shoreland management ordinance. A single level larger garage would require greater site disturbance. The site design also complies with the maximum 40% impervious surface coverage. The Planning Commission has reviewed and approved the site design.

Property owners within 150 feet of the subject property were notified of the project. Concerns expressed were about snow storage, drainage, storm water runoff and headlights. Staff believes the design follows the spirit and intent of the ordinance.

City Attorney Filla has indicated that he would like to see a text amendment adopted at the June 15, 2009 Council meeting to modify the ordinance regarding curb cuts. Then this item could be acted on at the same meeting.

Councilmember Wickstrom asked if the text amendment has to be published before the Council can take action or it can be in effect. City Attorney Filla answered that the Council could take action after the ordinance is approved, subject to publication.

Councilmember Quigley noted that he will not be at the June 15 meeting but stated that after reviewing the Planning Commission discussion, site plan and neighborhood comments, he believes the plan is well conceived and he would support it.

Mayor Martin opened the matter to public discussion.

**Mr. Bob McDonald**, owner of McDonald Construction, thanked the Planning Commission and City Planner for their outstanding help. If the curb cuts are not acceptable, the alternative would be to combine the driveways and then split them on the property. That would add more impervious surface. The current plan is well within the 40% limit.

**Ms. Teresa St. Amant**, Designer, stated that another reason not to combine the two driveways is the issue of getting up and down the two driveways. There would be more headlight problems as cars would not be headed directly toward the garage. There would also be a minimum of grading impact with the two driveways.

**Mr. Tim Klegin** stated officially that he is supportive of the plan presented.

Councilmember Withhart stated that he would favor tabling the matter in order to change the ordinance so the tools will be available to officially approve the project in an appropriate way.

Mayor Martin stated that the proposed plan solves a lot of problems, especially with grading. The 1-foot side yard setback will be solved. She appreciates the fact that the two driveways do not exceed the allowed width of one standard driveway. Horseshoe Drive is a unique neighborhood with many nonconforming driveways. This proposal would be an asset to the community.

Councilmember Wickstrom asked if pervious pavement is being used. **Ms. St. Amant** stated that a portion of the driveway will be of pervious pavers and compliment each other.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom to table the request to authorize installation of two curb cuts at 442 Horseshoe Drive and to direct staff to prepare an amendment clarifying the review process for deviations to Section 403 of the Municipal Code. Said amendment will be prepared for consideration at the June 15, 2009 Council meeting.

**ROLL CALL:** Ayes: Quigley, Wickstrom, Withhart, Martin  
Nays: None

### **TEXT AMENDMENT - ARCHITECTURAL DESIGN STANDARDS**

#### **Presentation by City Planner Kathleen Nordine**

This ordinance was considered at the May 4, 2009 Council meeting. It was tabled with direction to staff to present it for review to the Economic Development Commission. The Commission reviewed the amendment and supports the flexibility built into the ordinance. Therefore, staff recommends adoption.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Quigley to adopt Ordinance No. 850, revising Chapter 200 of the Municipal Code,

including Section 205, Development Districts and Section 206, Other Development Standards, establishing new regulations for site and architectural design, and to authorize publication of an Ordinance Summary.

ROLL CALL:           Ayes: Wickstrom, Withhart, Quigley, Martin  
                  Nays: None

**TEXT AMENDMENT - REGISTRATION/RECERTIFICATION OF VACANT AND/OR FORECLOSED DWELLING UNITS**

**Presentation by City Planner Kathleen Nordine**

This is a program to better monitor and address issues with foreclosed properties. From 2007 to the present, there have been approximately 120 foreclosed homes in Shoreview. The City's foreclosure response strategy has been the Housing Resource Center, which provides information on the foreclosure process as well as information on financial assistance for improvements. The City's Economic Development Authority (EDA) is exploring funding strategies to have homes reoccupied as quickly as possible.

Concern about the negative impact to neighborhoods and lack of property and housing maintenance has led the City to consider the proposed ordinances. Other local governments have enacted ordinances requiring registration of such homes. Registration would provide the City with a contact point if any issue would arise with the property. A registration fee would be imposed to cover code enforcement and inspections. The ordinance would also allow the City to have water shut off to the property.

Two ordinances are proposed. The first requires vacant dwellings to be registered. The second requires foreclosed properties to be registered with the City. The Planning Commission reviewed these ordinances at the March, April and May meetings. Discussion focused on differences between vacant and foreclosed properties and whether they should be treated the same. There was also a question of whether registration should be required if the property is in compliance and whether fees for registration and re-certification would discourage reinvestment in the property.

Staff was directed to look at a more streamlined process for vacant properties, as circumstances are different. Temporary absences, such as winter snowbirds or renovations, are excluded from the ordinance. If a property is unoccupied for 30 days, it is defined as a vacant property and City water service is shut off. Vacant properties are those: 1) vacated prior to the Sheriff's sale; 2) absentee ownership; 3) properties in estate ownership; and 4) vacated homes that are marketed "for sale."

All foreclosed properties would require registration within 14 days of foreclosure and re-certification for occupancy, with the exception of mobile homes and apartments. Similar programs in other communities indicate that the majority of fees are paid by mortgage companies

or their representatives. Staff is recommending the following fees: 1) foreclosed dwelling unit, \$300.00; 2) Re-inspection fee, \$50.00 (charged after the second correction notice); and \$30.00 for a registration transfer fee.

A temporary certificate of occupancy would be permitted for owners to move in and complete renovations and compliance work. In that instance, an agreement with the City would be required to bring the property into compliance. The Planning Commission questioned whether older homes have to be brought up to current Building Code standards. Compliance inspections look at property maintenance and minimum code requirements. An egress window that would be required today but was not required in the 1950s when the home was built would not be required. Smoke and carbon monoxide detectors will be required.

The City is able to identify foreclosed properties from the Sheriff's sale database and utility billing data when services change to a property maintenance or mortgage company. The program will be publicized with notices to realtor organizations, mortgage companies and local lenders. Cable TV, the City's website, newsletter and local newspapers will also be used. A VacantWatch program will be initiated to encourage neighbors to report vacant residential properties to the City. The City will partner with law enforcement to monitor vacant properties. A housing program that offers incentives to eligible buyers for vacant properties will be implemented.

Councilmember Withhart noted that often properties are vacant for some time before the foreclosure process begins and asked if they are identified soon enough before problems occur. Ms. Nordine responded that would be one reason to require registration.

Councilmember Wickstrom asked if the City can identify vacant properties when electricity is shut off by Xcel. Ms. Nordine stated that the City does receive a list of shut-offs regularly from Xcel, as required by state law.

Mayor Martin reported that Councilmember Huffman contacted her to say that he was contacted by a number of people about this ordinance. His concerns are about the potential issues identified by realtors and bankers. Councilmember Huffman would like to see further review of this issue before action is taken.

Mayor Martin opened the discussion to public comment.

**Mr. Patrick Ruble**, St. Paul Area Association of Realtors, stated that he would prefer the City to not adopt a vacant property ordinance. Other communities, such as Burnsville, that have adopted such ordinances are now moving away from them because they are unable to evenly enforce them. As a result of Burnsville's experience, Savage decided not to adopt similar ordinances. There are already tools in place to identify vacant properties through Xcel power shut-off and water shut-off. This is a dilemma faced by all cities. No ordinance will completely resolve the matter. The person responsible for the property becomes a gray area when the property is vacant. The bank or lender does not hold possession of the property. The key is to get vacant

properties back into the hands of responsible property owners. He has requested staff to meet with the realtor community to review the ordinance language. If the intent is to move forward, he would like to see it crafted to meet the goals of the Council. He questioned the wisdom of the ordinances because a vacant property is a vacant property. A lender has an incentive to find a responsible owner. When he looked at the listing, he found only 14 vacant properties. He would request the City not take these steps at this time.

**Ms. Ellen McGinnis**, Manager, Local Government Relations Activities for Wells Fargo, stated that she has worked hard to keep homeowners in their homes. If that is not possible, focus is given to getting homes occupied with responsible homeowners. Her concern is that the proposed ordinances will set up barriers to sales. Wells Fargo is aware of 160 cities across the country that have ordinances like this. Most are in urban, inner cities where problems are immense. Cities that adopt such ordinances have issues with contract law, definition of ownership, and property rights. Cities that have adopted similar ordinances find themselves reversing or changing them. Her recommendation would be to share an inventory of existing ordinances and the lessons learned with staff before the proposed ordinances are adopted. She encouraged the Council to have staff meet with lenders and realtors and consider unintended consequences of these ordinances and consider alternative strategies for the limited use of City resources and staff time. There are programs available. The Mortgage Electronic Registration System is set up to play the role of registrar for cities. The Home Prosperity Fund is managed by a non-profit, Family Housing Fund, to help cities and non-profit developers acquire properties. First Look is run by the National Stabilization Trust Fund, where lenders offer donation or discounts to local Economic Development Authorities. Wells Fargo owns a few of the 127 vacant properties in Shoreview, but Wells Fargo is an employer in Shoreview and wants to be engaged in discussions on this issue.

Mayor Martin stated that vacant properties are time sensitive issues and staff is spending a lot of time dealing with code violations. Some lenders or owners are not local, are not responsive and are difficult to contact. The City has had to do emergency abatements and is facing a financial crunch dealing with these issues. She believes that the Planning Commission and staff have developed a reasonable plan to address these problems.

Councilmember Withhart stated that the program is needed so the City can be more responsive to neighbors.

Councilmember Wickstrom agreed that something needs to be done. Many properties are owned by banks that are out of state and are not responsible. However, she would be interested in talking with other city councils that have addressed this issue before proceeding. Ms. Nordine responded that staff has talked with representatives from Brooklyn Center, Anoka, Columbia Heights, and Burnsville. Burnsville's experience is that the program is labor intensive with concern that the fees did not cover the cost. Brooklyn Center and Anoka indicated that the ordinance helped work toward housing goals.

Councilmember Quigley stated that his concern is that these ordinances would be a huge weapon aimed at a shifting target. A lot of staff time will be taken up with vacant properties and the number is relatively small. He sees the ordinances as an extreme response and is not sure it is necessary at this time.

Mayor Martin stated that often there is a long period of time that a house can be vacant before the Sheriff's sale when no one is responsible. She does not see the ordinances as onerous to lenders or realtors. A priority goal is maintenance of neighborhoods and housing stock. One of the most frequent calls she receives is questions about code enforcement issues. She does not see a problem in asking the responsible party to register and let the City know how the property is going to be handled. The fee is minor compared to staff time and taxpayer dollars currently paying for these problems.

Councilmember Withhart stated that he would have liked to see these ordinances in place a couple of years ago when the housing crisis started. It is a good tool that allows the City to stay on top of vacant properties throughout the City.

Councilmember Wickstrom stated that she would be willing to table the matter for staff to meet with realtors and lenders. She would also like to discuss this ordinance at a workshop session. She suggested tabling the matter for 30 days.

Planning Commissioner Schumer commended staff in addressing the questions of the Planning Commission. Commissioners found it a tough dilemma to decide what type of program to adopt. As a whole, it was thought a program is needed.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Quigley to table this matter and discuss further at a Council workshop.

**Discussion:**

Mr. Schwerm stated that staff will meet with Mr. Ruble and Ms. McGinnis to see if there is better language that could be incorporated into the proposed ordinances. The goals on all sides are the same--to get responsible owners back into vacant homes and to maintain the properties during the time they are vacant. Staff will bring recommendations to the Council after meeting with representative realtors and lenders. Councilmembers Wickstrom and Quigley accepted these conditions as part of the motion.

**ROLL CALL:** Ayes: Withhart, Quigley, Wickstrom, Martin  
Nays: None

**WEED ABATEMENT:****5927 Alameda-Deutsch Bank****3251 Victoria-Tuan Tran****Presentation by City Planner Kathleen Nordine**

A hearing is needed to approve abatement for the listed properties due to the nuisance of tall grass, weeds and vegetative growth. The property owner of 5927 Alameda was notified by certified mail posted May 19, 2009, requesting compliance by May 26, 2009. The property owner of 3251 Victoria was notified by certified mail posted May 26, 2009, requesting compliance by May 31, 2009. Inspections on this date showed that the violations continue to exist. Abatement of the nuisance is requested with charges to the property owner. If the charges are unpaid, they will be certified to the property taxes. The City has a contract with a lawn care service to take care of the work.

Mayor opened the hearing at 8:55 p.m. There were no comments or questions.

Councilmember Wickstrom noted that one property is owned by a bank in Texas and the other property is owned by a person in California. These are examples that show the City needs to do something because this is becoming more of a problem.

**MOTION:** by Councilmember Withhart, seconded by Councilmember Wickstrom to adopt Resolution 09-38 approving the abatement of vegetative growth for the properties located at:

5927 Alameda St.  
3251 Victoria St.

per Section 210.020(A), and to charge the property owners for the cost of the abatement, including administrative costs. The City Manager is authorized to monitor the property throughout the 2009 and 2010 growing seasons and to abate any vegetative growth on the properties that does not comply with City regulations.

**ROLL CALL:** Ayes: Quigley, Wickstrom, Withhart, Martin  
Nays: None

**ABATEMENT HEARING - 5815 SPRING HAVEN COURT****Presentation by City Planner Kathleen Nordine**

A building permit was issued for the building of this house in April 2007. The building was started but then ceased in late 2007, and since that time the property has been abandoned. The home remains incomplete outside and inside. It was repossessed by M and I Bank who assigned

Pro-Finance to manage the situation and market the property. Pro-Finance took possession and is marketing it as is. There is debris on the property, and the City has received many complaints because of its visibility. Staff has issued property maintenance violations and a compliance order to Pro-Finance to bring the property into compliance by May 27, 2009. Staff met with Pro-Finance who submitted a schedule to resolve the exterior with the exception of landscaping. The debris and dumpster were removed. Pro-Finance is not interested in completing the home. There is a purchase agreement with a builder who would take over and finish construction. This agreement indicates that the new owner would be responsible for completing the home. While staff is encouraged by the actions taken by Pro-Finance, there is still concern that landscaping, erosion and sediment control are still needed. Staff is requesting a hearing for nuisance abatement.

Councilmember Wickstrom asked if siding on the home would be completed. Ms. Nordine stated that is not under consideration with this request, but it will be included at the June 15<sup>th</sup> hearing.

**MOTION:** by Councilmember Wickstrom, seconded by Councilmember Withhart to declare the exterior conditions on the property located at 5815 Spring Haven Court a public nuisance and to adopt resolution 09-37, ordering the owner to abate the nuisance conditions that now exist on the property.

**ROLL CALL:** Ayes: Wickstrom, Withhart, Quigley, Martin  
Nays: None

### **SPECIAL ORDER OF BUSINESS**

The Council briefly discussed whether the July 6<sup>th</sup> meeting should be changed due to the holiday. It was the consensus of the Council to keep the regular meeting on July 6, 2009.

### **EXECUTIVE SESSION**

Mayor Martin called the Council into executive session at 9:05 p.m. with the regular meeting to be adjourned after the executive session.

Mayor Martin reconvened the public meeting for adjournment at 9:26 p.m.

### **ADJOURNMENT**

**MOTION:** by Councilmember Withhart, seconded by Mayor Martin to adjourn the meeting at 9:27 p.m.

**ROLL CALL:** Ayes - 4 Nays - 0

Mayor Martin declared the meeting adjourned.

THESE MINUTES APPROVED BY COUNCIL ON THE 15<sup>th</sup> DAY OF JUNE 2009.

---

Terry C. Schwerm  
City Manager