

MANTORVILLE CITY COUNCIL MEETING MINUTES
MONDAY, JANUARY 25, 2016
6:30 PM

1. **Call to Order** – Mayor Bradford called the meeting to order at 6:30 pm.

Members Present: Chuck Bradford, Henry Blair, Sherry Roth, and Don Hofstad.

Others Present: Jay Kruger - CMS, Gretta Becay, Mark and Nancy Schmidt, Gary Bromley, Dan and Jone Trapp, Sheldon and Ramona Torkelson, Jeff Mehnke, Ann and Mark Torkelson, Bill Glawe, Karen Steele, Mike Marti, Melissa Manderschied – City Attorney, Joe Adams, Scott Larsen, Patti Chilson and Cami Reber.

2. **Pledge of Allegiance** - Done

3. **Additions/Deletions to Agenda** –
Addition of 7. f - Review of City ordinance.

4. **Consent Agenda** – Motion made by Member Hofstad, second by Member Roth to approve the consent agenda as follows:

- a) City Council Meeting Minute's January 11, 2016
- b) Warrant List January 25. 2016
- c) Dodge County Board of Commissioner's Meeting Agenda January 26, 2016
- d) SEMLM Annual Meeting Notice – Reminder

Motion passed unanimously.

5. **Public Concerns** – Gary Bromley – 13 Zumbro Ridge Drive – noted inconsistencies and false statements in the response information submitted by the Torkelson's included in the City Council packet. He provided copies of his written response to the Council Members and spoke to the Council summarizing it. He emphasized that the matter of the Torkelson building is not restricted to just Dan and Jone Trapp but affects all of the surrounding neighbors. Why is there so much emphasis in pleasing the Torkelson's with no regard to the 20 neighbors? A building of this magnitude pleases only the owner. It is a horrendously oversized building which does not fit in an R-1 situation. No architectural drawings have been submitted still. This is part of the requirement when you apply at the City and still has been ignored. The conceptual, aerial and other drawings do not meet the requirements. The drawing submitted do not have offsets, elevations or dimensions as required. He has drafting experience and none of these drawings is acceptable, accurate, or to scale. Without those drawings, the actual size and height of the building is limitless. They got exactly what they asked for previously and it will accommodate their needs. He noted having the same type of heaters and equipment in his current shop (at 10') and home garage (at 8') and has never encountered any clearance problems.

He commented on the enormous amount of noise that was generated last fall from dawn until dusk including weekends. No considerations from the Torkelson's. Commented on the sale of 29 Zumbro Ridge Drive; the sale occurred after the Torkelson's home was built and they never endured the noise throughout the summer. In addition, to the letter from the realtor that the Torkelson's supplied, the realtor is not an appraiser and her opinion does not count. The new owners will not be looking at an oversized accessory building either. Further comments included screening the building, the berm and it not being maintained, not mowed and stops the natural flow of water causing a virtual lake on the Trapps property, which can cause damage to the septic system. Encourages the Council Members to deny the request.

6. **Public Hearing** - none

7. Old Business/New Business

a) **Tabled Variance Request Mark and Ann Torkelson**

City Attorney Melissa Manderschied gave a timeline of the events up to date for the recent variance request. The City formally extended the 60 day timeline to February 22, 2016. The City sent the applicants a letter reminding them if they so choose to submit more information regarding the variance request. That information is submitted and in the packet.

Mayor Bradford asked if anyone wanted to make any additional comments based on the new information submitted to the City or the letters that have been published.

Jay Kruger – Construction Management Services, Building Inspector for the City of Mantorville, asked the attorney to explain the hardship aspect as it pertains to being granted a variance. In his opinion, hardship pertains to the land. City Attorney Melissa Manderschied explained the rules for hardship and the findings the City must find in favor of in order to find in favor of the variance.

Jay Kruger responded that he reviewed the information the Torkelson's submitted and how it relates to the building code. The building code does not mandate the size of building that is being requested. It is their choice to build a building that size with that scope of sidewalls. The only hardship and uniqueness to this property in question is the style and design of the building that is being picked to put on the property. It has nothing to do with use of the land.

Ann Torkelson spoke that what this is about is about trying to build a building, that is the style, which others have opinions on it, but the lay of this particular piece of land, the elevation, and the grade that is associated with it, doesn't allow the positioning to be able to pull equipment in and out. They recognize that the building code pieces are a moot point and that is in context of trying to build a gable roof structure, which they believe is in the best interest of the neighborhood. They feel it allows them to build a structure that is most fitting in the surrounding and similar to other structures in the area – a gable roof structure. We can build a building within the 18', but it will result in a flat roof structure. They want to be able to build a structure now that meets their needs now and into the future. They are limited by this one accessory structure on the property.

Jay Kruger responded that in his opinion and doing what he has done for 28 years and also as a zoning administrator for many years, there is reasonable use of the land allowed as it sits right there.

Nancy Schmidt commented that they have 6 acres to build whatever they want on within the confines of the variance that they were already given and that a 28' structure in an R-1 zone, this isn't rural and it's not industrial. Why are the Torkelson's qualified to say what fits the local surroundings. They want it to look good on their side, from their view, the neighborhood will still see the back and the side of a plain old metal pole shed. She questioned the cupolas and it was verified by the attorney that cupolas are an exception to the height restrictions per City Code 150.022.

Ann Torkelson responded stating that they do require 14' doors for current and future needs. The large building is driven by the need that one half of the space will be driven by personal use. They have reviewed the ordinances and 150.069 talks about what is allowed in an R-1 zone. It does outline that up to 35' is something that is acceptable and this structure is below that limit. This is contentious and they would not subject themselves to this if they didn't truly believe that it was the best option. They can proceed with a building with a flat roof structure if that's the position that they get put in. They don't believe that that is what anyone would want in the end. They believe the gable roof structure is the best option and fits in best for the residential setting.

City Attorney Melissa Manderscheid and Mayor Bradford clarified that the height limit for accessory buildings is listed in 150.025 and that 150.069 refers to the primary structure.

Jone Trapp spoke that she doesn't like the building, doesn't want any building like that in her yard, it is in her yard, not theirs. Notes in the application it is stated twice that MN Building Code drove this building to be the way they want. That's a false statement. Jay Kruger verified that. Commented that the berm is construction and done without a permit.

Gary Bromley commented and questioned if this is such a beautiful building why is the house situated with a berm between them so they cannot see this building. Appalled at the thought that they can suggest what we want and need after being there so many years and it is completely disrupted for one family's pleasure.

Nancy Schmidt commented to please do the right thing, please deny this request.

Motion made by Member Blair, second by Member Hofstad to pull from the table the request for the variance. Motion passed unanimously.

Member Blair – pointed out his starting point for this has nothing to do with anything personally involved except a personal right to, personal property right is where he defaults to, and being limited by the Code and variance stuff. Generally he likes to default to the personal property rights. The character of the area was pretty rural with the corn that grew there. Perhaps the zoning was wrong there with it being R-1; the way the zoning is laid out generally seems erroneous but defaulting to that is the point for variance's where the zoning and rules don't necessarily fit future plans and where things change. From a personal property rights standard, I tend to lean towards the variances being approved as a rule until it is injurious as such and I think there is a good case made here with the selling of the house in the neighborhood, which I cannot believe that construction size went completely unnoticed and the discussion never came up, it is possible, but whatever an appraiser said before such time as that property sold, after the property sells is a lot bigger indication that somebody's opinion of what exactly will happen or what they think is going to happen, so there's a pretty strong case there as to how that is probably not as injurious as people have eluded to.

Member Hofstad– tries to take things in perspective, is a licensed plumber, whenever he does drawings for someone, he has to have everything to scale, to meet code, and get it approved. Needs to get everything written down and documented before it gets approved. Thinks that Mr. Kruger has made a fair statement as far as to where the code is and what the code is not. What people want, what people need, and what people think is irrelevant. There is going to be a different opinion on everybody's take. I don't think that some of the facts that we are looking for and things to ok this, in his opinion, are there. I'm not satisfied with what I've heard, I can't say one way or the other. I have to go by what the peoples decisions are as far as what they do for a living, what they get paid for that are beyond me. I'm just a plumber but there are people that get paid to make decisions to help us out with the code and things of that nature.

Member Roth – is visual and is yet to see anything that will help her to see and understand how the structure will fit into the community; it would help her to better make a decision. Mr. Kruger's questions have alerted her to better understand the zoning and the changes with zoning and make sure we are meeting the requirements. Doesn't feel comfortable to try and make a decision at this point. I don't feel like I fully understand how these zoning changes affect our decision. Would like to take some time to review the things presented tonight. Would like some visuals and feels that the missing council member needs to be present.

Mayor Bradford – wants to take some time to review both documents a little more, see if there is something brought up that he hasn't considered before. Inclined to entertain a motion to retable to the February 8 meeting. There is merit to have a full Council.

Attorney Melissa Manderschied noted timing consideration. Asked what other sorts of information the council would like so they are comfortable in making a decision at the next meeting. Member Roth noted more to scale documents will help also, she wants to view other sizes of buildings in the area. February 22 is the date that action needs to be taken by the City Council and the action delivered to the applicant. Council continued discussion on timelines and when things need to happen.

Motion made by Member Roth, second by Member Blair to table until February 8, 2016. Member Hofstad noted the importance of having all 5 members and peoples strong feelings the last time with only having 4 present. Motion passed unanimously. Mayor Bradford noted to be prepared to give staff direction on which way they want to proceed with. The Mayor instructed the attorney to put together a draft non approval resolution for the meeting. We already have an approval draft resolution prepared. Jay Kruger also noted that he would be available for any further questions from anyone.

- b) Sheriff Scott Rose 2016 Law Enforcement Contract & Memorandum of Understanding**
Sheriff Scott Rose introduced himself to the Council and he spoke of the Next Generation 911 System coming in next year and the weapons screening which is going to start in another week. They are looking at a 2.5% budget rate increase next year across the board noting that they kept things the same for 2016. Motion made by Member Roth to approve the 2016 Sheriffs contract. A second and friendly amendment by Member Blair requesting the date change in the document from 2015-2016. Motion passed unanimously.

Motion made by Member Blair, second by Member Hofstad to approve the Memorandum of Understanding document. Motion passed unanimously.

c) WWTP Flow Meter

Motion made by Member Blair, second by Member Roth to allow the purchase of up to \$4,700 for a new flow meter at the WWTP if the old one can't be fixed. Motion passed unanimously.

d) City Garbage Service

Motion made by Member Roth, second by Member Blair to table this discussion. There are some discrepancies in the numbers received that need to be verified.

e) Public Works Equipment Request

Scott discussed with the Council the request for the purchase of equipment for the Maintenance Department. Motion made by Member Blair, second by Member Hofstad to approve the purchase of the new 926M wheel loader on a 5 year even payment lease with the trade in of the grader at \$166,950. The lease payment will be split between the Maintenance Department line item and the other half from CIP. We have been saving up for this a long time. Motion passed unanimously.

f) Update and Review of City Ordinance

Melissa spoke to the Council about the need to sink up the current Variance code with the State Variance law. Specifically section 150.111 and 31.38 F of the City Code. Motion made by Member Roth, second by Member Blair to direct the City Legal Consultants to line up our ordinance to match State Statute as they are recommending. Melissa should bring those changes to the meeting on the 8th to begin discussion. Council discussed more housekeeping cleanup of the rest of the zoning code which needs to be done. This will start getting pulled together.

8. TBD

- a) **Public Works Report** – Scott Larsen asked about plans on the two wheel drive pickup? Member Blair noted to make it through the spring and look at it later due to the projects that are coming up this year.
- b) **City Clerk Report** – Cami asked for Council approval to send Scott to WW training and to take his collection system license. Motion made by Member Hofstad, second by Member Roth to approve the training for Scott. Motion passed unanimously.
- c) **Consultant Report** – none
- d) **Committee Report** - none
- e) **Council Member Report** - none
- f) **Mayor Report** –Mayor Bradford reported that the EDA is still looking for new commissioners, he spoke about the 2016 SCD Celebration and the new way they are planning to try and pull it together. He will be attending Mayor Carlson’s event coming up and updated the Council Members on the MN Governors preliminary budget and money being allocated for Infrastructure projects.

9. Executive Session

Motion made by Member Blair, second by Member Hofstad to close the regular session and go into executive session at 8:21 pm for staff evaluations. All City Staff requested that their evaluations be completed in closed session. Motion passed unanimously.

Motion made by Member Roth, second by Member Blair to close the executive session and go back into open session at 8:47 pm. Motion passed unanimously.

a) Staff Evaluations

The City Council completed the 2015 staff evaluations on Patti Chilson, Scott Larsen and Cami Reber. Motion made by Member Blair, second by Member Roth to approve a 4% wage increase retro back to January 1, 2016 for all three. Motion passed unanimously.

10. Adjourn – Motion made by Member Hofstad, second by Member Blair to adjourn at 8:49 pm. Motion passed unanimously.

Attest:

City Clerk Treasurer Camille C. Reber