

**CITY OF SPRING PARK
SPRING PARK, MINNESOTA
MINUTES
COUNCIL MEETING
MAY 15, 2006
7:30 P.M. – CITY HALL**

1. **CALL TO ORDER**

Mayor Rockvam called the meeting to order at 7:30 p.m.

2. **ROLL CALL**

Hughes, Reinhardt, Mayor Rockvam, Widmer and Williamson were present. Staff present: Administrator Friesen, Special Assistant Weeks, Utility Superintendent Goman, Deputy Clerk Corl, Office Assistant Lewin, Engineer Ken Adolf, Attorney Nancy Beck, Planning Commissioner Mason.

3. **ADOPT AGENDA**

Motion by Williamson and seconded by Widmer to adopt the agenda. All votes were aye. Motion declared carried.

4. **APPROVAL OF MINUTES – May 1, 2006**

Motion by Reinhardt and seconded by Hughes to approve the Minutes for the Council Meeting of May 1, 2006. All votes were aye. Motion declared carried, unanimously.

PUBLIC FORUM – No one present.

Mayor Rockvam introduced the Council and Staff to the viewing public.

5. **PETITIONS, REQUESTS & APPLICATIONS**

a) Tom Scanlon, LMCD

1. Scanlon reported the LMCD put out a news release regarding the high water emergency. He said the news release is now being web streamed on the Internet and meetings are shown about a week after they've occurred.

Scanlon distributed the activity reports from the last two months. He said for lake residents this is the start of high-crime time on the lake. He warned to watch boats and property as late May and early June usually have the highest rate of break-ins on watercraft.

Scanlon reported the milfoil chemical treatment project will be a wait-and-see over the summer. The first bay to be treated was Carmen's Bay and treatment was applied May 2nd. During the next two to three weeks the other two bays will be treated. Scanlon said regarding the Carmen's Bay application, there was roughly 50% participation with homeowners; they're hoping for significant results. He added the LMCD had wanted a higher participation but it was homeowners that would have had to pay to pay for it.

He said there will be communication with residents through a new newsletter and it will be produced twice a year. Reinhardt verified this was the newsletter that was mailed out a while back and stated it was well done; it helped to understand what the LMCD is all about; the goal is to increase the public's awareness and participation.

Scanlon wanted to give the Council a heads-up regarding the budget process; for this coming year, the draft shows a 10.4% increase for Spring Park. He said the increase for the City of Spring Park is around \$420. He added the LMCD would like a 10% increase because of administration and exotics management; the concerns are Zebra Mussels, milfoil harvesting and chemical treatment; the LMCD is trying to be proactive and has a lot of future challenges and they're trying to educate the public. Their hope is to improve the lake through preventive management and gain control of milfoil by chemical applications.

Scanlon also reported at a recent meeting Environ Century Protection showed a monitoring camera that would show license plates and signs of milfoil on a boat or trailer to be used at the launches. It's going to be used on a trial basis at Gray's Bay Boat Launch. He said because there are a number of lakes that have Zebra Mussels the LMCD wants to prevent them from being introduced to this lake.

Scanlon said it's expensive to monitor the landings with staff; most usage is on the weekends; this camera provides an economic solution to round-the-clock monitoring; it increases the compliance level and they would be able to document usage statistics. He stated tickets will not be issued as this is a monitoring program and a test study only and the LMCD is spending \$2,000 on the study.

Hughes questioned whether they will be keeping a tally regarding boats with milfoil that leave the landing or if there will be any documentation. Scanlon stated lawyers are trying to work out a solution; the LMCD is the first customer for this company; it's more of a monitoring program. Rockvam stated a few years ago there was a big effort to issue tickets to boaters leaving the landings without cleaning off their boats. Rockvam stated it seemed to be effective.

Reinhardt asked if the camera will be in place all summer and Scanlon said yes. He added it will need to go to the Minnetonka City Council for their approval as Gray's Bay Landing is in their area. Rockvam asked how this will aid in enforcement and, if it's a matter of stopping the exotics, enforcement seems to be pretty effective by citing boaters at the landings. Scanlon said their purpose is not enforcement. They try to educate boaters and use stickers when checking the boats. Reinhardt thought it could be helpful in identifying how big a problem it is. Scanlon said it would be too costly to have the landings policed and the camera alternative is cheaper.

Williamson said he thinks it's a good step in regards to compliance, numbers and future strategies. He said they are devastating and have devastating affects on lakeshore property values and some day there will have to be a funding source.

Scanlon continued stating a high water emergency came into effect on May 3rd. The lake level is up to 930.25, which is well above the ordinary high water mark. Scanlon distributed to the Council a map of the shoreline indicating 600 feet out into the bays. Scanlon stated 1/8"-1/4" a day goes over the dam so this high water emergency could probably be with us for a month. It's harmful to persons with low shorelines. The rivers and creeks downstream are at high levels too

so they can't let more water go over the dam at this time and the lake continues to rise due to run-off.

Rockvam asks if the solar light program is in effect on the buoys. Scanlon said they've continued to add two buoys per year for the last several years. Rockvam said he hasn't seen them out yet. Rockvam asked if the LMCD would consider organizing some type of courtesy campaign on the lake in order to educate boaters about the size of wakes and their conduct when going through channels. He added lately the size of boats coming onto the lake is dramatic and the big boats don't show a lot of respect. He suggested going through some of the large boat dealers in regards to getting literature out to boat buyers, new boaters could be educated about boating laws and courtesy. Scanlon said he will add this request to the list.

- b) CUP Renewal for Hoop House – Frattallone's Ace Hardware, 4695 Shoreline Drive. Mike Frattallone was in attendance.

Mayor Rockvam read the terms of the Conditional Use Permit (CUP) for Frattallone's Ace Hardware for a Hoop House. Rockvam asked about the new propane cylinder cage and the big tank and said it is preferred that be placed inside the gate. Rockvam also requested half barrels of plantings to be placed around the outside of the fence. Williamson asked about the 90 day period start date. Frattallone said he's not sure and thinks probably around May 1st. Weeks said the letter was dated April 28th and the hoop house is already existing.

Motion to approve the CUP renewal for a Hoop House for Ace Hardware, 4695 Shoreline Drive by Reinhardt and seconded by Widmer. All votes were aye. Motion declared carried.

- c) LMCC Re: Request for Contribution – 4/28/06

Williamson stated the memo referred to wireless internet. He added by having wireless internet capabilities one can have a computer and log onto the internet anywhere within the served area. Other cities have begun to establish different models of this service. There is some testing with three different systems in testing the models. Williamson said there are some members of the public that can't get high speed over the telephone and, another option is with their cable system but cable television is not available to everyone. He said the LMCC is at the next step of the concept plan. They want to develop a concept model and do some cost estimates. This study will cost around \$60,000. The LMCC doesn't have the resources to spend that money but would conduct this study if cities were interested in contributing.

Reinhardt asked whether Spring Park residents have access to high speed internet. Williamson stated it's available through Mediacom and there is some wireless availability to businesses. Rockvam asked if you can get it through Mediacom. Williamson said yes. Hughes stated he has high speed internet service via Qwest. Hughes wondered how many people in the city would use it. Widmer said there are two providers already. Reinhardt thinks a city our size, being that we already have high speed available, need not be a leader in forging this path. Rockvam said to review this in about six months and see if there is a need for it.

- d) Three Rivers Re: Request for Rep – 4/28/06

There's a meeting on May 17th at 8 a.m. and they're looking for someone who is technical by nature rather than political to be a rep for the City.

Rockvam wondered who has been involved in SRF in the past. He thinks we never seem to be able to convey what we are interested in to their staff; we were looking for a trailhead. Rockvam said he would like to see this moved up to the first wave of construction and we are also looking for a fairly large public parking area. He said we've never really had any discussions with SRF. Rockvam said Friesen has expressed interest and someone needs to be there; that person should understand what we are looking for and be able to convey it; Reinhardt said she'd be able to attend. Hughes thinks it's important that Brixus from NAC attend.

e) Miscellaneous – none.

6. ORDINANCES & RESOLUTIONS – None.

7. REPORTS OF OFFICERS & COMMITTEES

a) Mayor

1. Administrative Committee Minutes – 5/10/06

Williamson asked if we've heard from the City of Orono about the language in the zoning assistant agreement and Weeks said no. Friesen said the audit would be done in July and water rates could be discussed at that time. She said a specific timeline was not included, she just picked July. Rockvam said the Council is waiting for the audit to see what kind of balance there is in the general fund. He added it's premature to have a meeting with the residents until we know what type of general fund balance we have. Reinhardt said she thought the Council was waiting for the preliminary results to show how big of a loss there was in the water fund. Williamson said we're going to have to wait until those documents are available. Reinhardt didn't think those documents will show a surplus. Widmer said the first possible chance to see the audit would be the second Council meeting in June.

Hughes asked Friesen about a building permit timeline. Friesen stated it's ongoing as permits come in. Hughes suggested the 2nd meeting in June we could review the process and a checklist could be instituted. Rockvam stated with all the mistakes over the past twelve months it would be a great place to start. Friesen said it's a consensus between the Council and Planning Commission some sort of checklist is necessary so it's processed in a more accurate fashion. Widmer said the 2nd page could be a checklist to the property owner. Rockvam said i.e. the Marina Car Wash scenario could establish a good basic set of criteria in which to start from.

Rockvam asked how the administrator transition is going. Friesen stated she and Weeks have been working together and it takes a while to get up to speed. She feels it's been worthwhile to have Weeks here for historical perceptions. She added Weeks is going on vacation and the real test will be then. Rockvam asked what if Weeks was not to come into the office but rather be on call and be used as a resource. Rockvam asked Friesen if she felt comfortable with this idea. Friesen said there are a lot of things coming up with past issues and she thinks Weeks needs to stay involved because closure will be needed. She feels his assistance is necessary. Rockvam said after his vacation Weeks will probably be on call and not be coming back to the office. Hughes said maybe Weeks could come in a couple of hours a week. Williamson said it must be up to Friesen as to her comfort level. Friesen stated it's been three weeks and it's been good to have Weeks as a resource. Friesen compliments Weeks and stated his files are in order, easy to access and use.

Rockvam has concerns on the K. Hovnanian Project. He drove by there on the water about a week ago and looked at the mature trees in the area. Rockvam said at a workshop it was stated they were going to clear cut the trees and Rockvam thinks it would be a mistake to cut them all down. He said K.

Hovnanian should be encouraged to keep the mature trees. Rockvam stated some of them are probably 50-75 years old and they add a lot of value to the property and there should be an effort to preserve as many trees as possible. Hughes stated it hasn't been put forth as to what they are planning to keep or cut down and more detail is needed. Reinhardt asked if it was listed on their initial plan. Mason stated there was no discussion that he recalls. Beck stated she thinks they were planning on a clear cut. Hughes said the DNR might have issues with cutting trees within a certain area. He said it is clearly stated there is a lot of regulation about vegetation and plantings regarding the lakeshore. Reinhardt said the plans have already been approved. Beck stated she purposely withheld the landscape plan and when looking at the resolution, the landscape plan was pulled out and it needs to be more detailed. Rockvam said there is specific language with the Watershed District and it would be a big impact if it's clear cut. He added there is a lot of esthetic value when out on the lake looking in. Goman added that Fire Chief Pedersen reviewed the fire plan in regards to fire access. Goman said some of those mature trees are probably in the fire access lanes. Williamson agreed there might be some critically placed trees that might have to come down but agrees with Rockvam about not clear cutting the site.

Rockvam asked Goman about the drainage behind the former Zucarro property, 4636 Shoreline Drive. He said it seems as though there is an erosion problem down the bank and into the catch basin. Rockvam asked how often the drain has to be cleaned out. Goman said it was done two weeks ago and it was full of sand, sediment and rock. Rockvam asked about a permanent weir. Goman said it is something that will be looked at this year but the dollars budgeted have already been spent. Rockvam said he wondered if the owners of the property are aware of the problem. Goman stated they do block it off and don't allow deliveries. Williamson has also taken notice of this property and said the erosion of the bank is only about four feet away from a power pole that supplies the main feeder line. The bank is clearly rapidly eroding and kids walking along the railroad right-of-way might be in danger as there is a very steep drop off. Goman said the railway cut down trees this past winter and blew the wood chips into the property and interfered with the storm water run off. Williamson stated there should be a keen interest in stabilizing the bank. Goman said he'll contact the rail authority.

b) Council – Hughes, Reinhardt, Williamson, Widmer

Hughes asked if the hold harmless agreement for 2406 Black Lake Road is ready. Beck stated she's working on it.

Reinhardt stated the recent spring clean-up was successful but she wondered if there is a policy about handling complaints regarding items stored outside residences. Rockvam said there isn't an ordinance that prohibits storage of items. Weeks said three or four years ago the City did a letter writing campaign. Pictures were taken and the City offered to help if they needed help. Reinhardt stated she is looking for ideas about notifying or sending letters encouraging them to clean up their property. Williamson said some people just don't have garages and storage areas but, if we get some compliance, it's still compliance.

Rockvam referred to 4388 Shoreline Drive and their display pads. He wondered what's happening with that the erosion issues and their green space. Widmer referred to 3811 Togo Road; when they added on, there wasn't supposed to be a driveway access from Park Lane and there is. Rockvam asked if the property were cleaned up, could the owner be billed for the clean up efforts.

Williamson said it seems as though the Water Patrol building painting has fallen through the cracks. Weeks said he talked to the person in charge of maintaining the building. They said they'll call and get our approval on colors. Williamson asked the potential of a discussion on landscaping and

Rockvam said we can always send them a letter and ask if they'd consider doing something in regards to landscaping.

Williamson asked if there has there been any cost estimates for Lift Station 6. Goman said he contacted Norlings and he chose not to bid it due to the scope of the job. The contractor is on site as of this morning and estimates within two to three weeks the restoration for the exterior and they will be adding additional screening.

Widmer asked Goman when the tree stumps at Thor Thompson will be gone. Goman said they will be gone by the end of this week and the culvert will also be cleaned up at the same time. He added the stumps were dug up about a month ago but they need a large loader to remove them.

c) Engineer

1. Schoell & Madson Re: Island Harbor – 5/10/06

Adolf stated Harriss architects have an existing contract for additional services with Schoell & Madson. The next phase of the project is the construction phase and there has been no authorization yet; based upon previous discussions it is felt an independent third party review might be necessary. Reinhardt asked since the authorization hasn't taken place yet, is it an agreement between Harbor Island and Schoell and Madson? Adolf said there is an agreement but they haven't been asked to proceed yet. Rockvam stated the understanding is the conflict of interest would apply. Hughes asked if Adolf is representing the City or the developer and asks which hat he has on now. Adolf said he represents the City on behalf of Schoell and Madson and he's disclosing the information as a city engineer. Rockvam stated he is trying to understand why the conflict of interest wouldn't apply. Beck said the conflict of interest wasn't in place at the time the contract was put into place. Beck stated she understands Adolf got unofficial permission from the City. She added the Council and Planning Commission were concerned about this so they came up with the idea an independent review could be done when things came up and it would be paid for by the developer.

Rockvam asked about the third party review. Adolf said there wasn't anything specifically stated, it was more or less a general discussion. From Adolf's perspective there is coordination and independent reviews during the plan review and permit process with the Watershed and the Department of Health. He said we're in between phases right now so this is a good time to review this.

Hughes stated a formal vote is needed when there is a conflict of interest. Rockvam said he thought this was grandfathered in. Hughes said the spirit of the conflict of interest should be taken into account. Williamson said certain aspects of the development, as it's staged, incurred, and final completion standards, were to be reviewed by the engineer and the concern is the engineer is representing both teams on the field; the conflict of interest is designed to deflect this and there is no way the City can order them not to honor a contract but the City can order an independent review. Williamson said one concern is with Goman's input as he doesn't have an engineering degree. Adolf said the sanitary sewer and water design is an appropriate role for the city engineer.

Adolf stated he doesn't do the design work for these, he represents the City. Goman said the review process has been done by Lynn Patton from Schoell & Madson and then Adolf. Reinhardt stated Goman should be the reviewing party but wondered if a professional engineer should be involved. Rockvam said we've already authorized him to enter into an agreement with the developer and he thinks it's probably already grandfathered in. Adolf stated the background or the involvement dates back to December and the original agreement with K. Hovnanian and the time schedule was such that they were trying to get in

before the moratorium. Hughes stated the City needs to identify a third party through an independent process that will sign off on the development and the cost of that is charged to the developer.

Motion by Hughes and seconded by Reinhardt to have the City Attorney put out an RFP (request for proposal) for this particular endeavor. Williamson said this will be in the development agreement. Rockvam requested an amendment that this is paid for by the developer.

Motion by Hughes and seconded by Reinhardt that any costs associated with the third party engineer be charged to the developer. All votes were aye. Motion declared carried.

2. Lift Station #6 Negotiations

Adolf stated there is a meeting scheduled on Wednesday morning with Bollander (contractor for lift station 6) to negotiate or to find an alternative resolution. Adolf thinks they will be agreeable to negotiating now. Rockvam stated we've had \$270,000 in change orders. Rockvam asked if there are others and Goman said it's more like \$300,000 total.

Adolf said the Sunset Drive update is being advertised for bids and will be awarded at the June 19th Council meeting. An alternate bid will include the costs to cross the HCRRA property. There is a meeting with JE Dunn regarding the street lighting not included in the project; there are three lights on the RR property and they've indicated some reluctance to do that.

Regarding the Stormwater plan, it is due on June 30th and John Karwacki (Schoell & Madson) indicated he'd have this done on time.

d) Utility Superintendent

1. Paver Costs. Goman is waiting on costs from Brad Ridgeway, J E Dunn; they still show the scored, stamped concrete, not the pavers on their plan.
2. Lift Station #6 Exterior Enhancements - Previously discussed.
3. Schoell & Madson Re: City Hall Parking Lot & Driveway Reconstruction – 5/10/06.
Goman said he doesn't know if the Council received page two. He said the Council asked Schoell & Madson to revamp their proposal for City Hall driveway from Warren Avenue to the top and behind City Hall. Goman said in 2005 the original cost was almost close to \$11,000. Option two of the water tower to the fire hydrant was almost \$75,000.
Rockvam asked about moving the control panel out of the water tower to the waterplant. He asked if there would have to be any excavating done and Goman stated no; It should be under \$5,000 to move that.

Reinhardt asked if it is going to be under \$50,000 to do the driveway, why are there approximately \$10,000 in engineering costs. Adolf said this includes staking and observation, a concept plan, a concept sketch plan, a landscape plan and presentation to staff and Council. Adolf said concepts are presented in order to confirm each individual line item. Adolf said he's gone through it a couple of times and they can't do much better. The staking and observation is in the 15-20% range. Rockvam asked about what if we didn't do any engineering on it at all. What would be the risk? Goman said there are a lot of factors regarding the lay of the land and the depth of the water main. There are also electrical lines we have to consider. A paving contractor will just come in and pave the driveway. They don't care about drainage and cover on the water main.

Rockvam said Schoell and Madson originally designed the drainage therefore what would be the difference if we just have a contractor come in instead of having it engineered. Adolf said he doesn't remember if Schoell & Madson designed the back of City Hall. There would be risks. Adolf said there is a parking lot design for curb and parking and he thinks it's important to get existing elevations and to design things that fit. If anything, they could take out the landscaping plan. The landscaping could be done by Norling.

Rockvam thinks the way to do it is to do it all at once but, the trouble is, it's not known at this time what is being done with City Hall. He said the curb and gutter and driveway needs to be finished off. Hughes stated he asked at the last meeting about an update with the architect regarding City Hall because this planning has to be done budgetarily. Williamson is concerned regarding executing option two and then later we come back to the engineer about City Hall. Somebody might say something about why we didn't have the foresight to plan it in the first place.

A motion made by Rockvam and seconded by Reinhardt to engineer the City Hall parking lot and driveway construction with option two of omitting the landscaping plan from the original. All votes were aye. Motion declared carried.

e) Administrator

1. June Calendar

Reinhardt stated she will absent from the June 19th meeting.

2. Moratorium Reminder 5/25 (7:00 p.m. - 9:00 p.m.)

3. Date for Public Meeting on Water Rates. This is continued to a later date.

4. Marina Car Wash Update

There is information in the packet and an email from Charlie at LMCD. They're getting further information from Gronberg, Phlegar's engineer. If the plans are complete and a public hearing is not requested, a permit will be issued. Rockvam asked if the Council will see the plans before they're executed. Williamson also wanted it confirmed that the floor and roof won't be added until the Council has reviewed these plans.

5. Expenditure Guideline YTD Normal reports through April. Widmer asked if we're waiting for a request from the Senior Center for the \$3,000 that has been set aside. Weeks said that is the procedure. Rockvam said the Senior Center has one chance of getting stability in their operations fund and that is to form a joint powers agreement with contributing cities with someone from each city that sits on the board. He said the only way it will work is with permanent funding. Williamson said he thinks we should consider increasing the dollar amount. Williamson added the key point the mayor makes is the stability of a funding source. Hughes said he questions the 106% expense for zoning. Weeks said it's for plan review and zoning and mostly reimbursed by permit fees.

6. Fund Balances YTD: Williamson asked if this includes the interest earnings. Widmer said it's on the cash and investments.

7. Cash & Investment Summary

8. Miscellaneous:

8. CLAIMS FOR PAYMENT

Reinhardt makes a motion and Hughes seconds to approve the Claims for Payment. All votes were aye. Motion declared carried unanimously.

9. UNFINISHED BUSINESS: None.

10. NEW BUSINESS & COMMUNICATIONS

- a) Memo Re: Draft Ordinance and Moratorium Meeting Date – 5/5/06 (Mailed)
- b) Fire Rescue Calls April 2006: Widmer asked about the number of calls when rescue is dispatched along with the fire department. Widmer questioned the 29 hours at one place. Goman said it's man hours and 107 is an event number. Widmer also asked if there is any regulation on fire pits. Williamson stated the fires are supposed to be attended at all times. Hughes said in the next newsletter there should be a reminder about recreational fires rules.
- c) Head, Seifert & Vander Weide Re: Lakeview Lofts Status Report – 5/11/06
- d) Head, Seifert & Vander Weide Re: Mist Lofts Status Report – 5/11/06
- e) Head, Seifert & Vander Weide Re: Providence on Lake Mtka. – 5/11/06
- f) Fire Contract Minnetonka Beach Decision
- g) Brad Ridgeway, JE Dunn Re: Trash – 5/12/06
- h) Planning Commission Minutes – 5/10/06 Reinhardt said the Planning Commission did a really good job about making it clear that submitted information needs to be complete. Williamson said there is a tendency for applicants to not appear at meetings. Williamson said it's an arrogant assumption on the part of the applicant to assume their request will just pass. At the same time, an applicant might not know the application was incomplete. It's a function of the staff and the checklist to assure these applications are complete when they're turned in. Williamson also brought up Planning Commissioner Tyler's concern about what is stored in the storage facility and regulations governing it. Rockvam said he thinks this might be a question to be answered by the fire chief. Rockvam said to send the chief a copy of the Planning Commission minutes and highlight the request.

11. MISCELLANEOUS

Mike Mason has submitted a letter he has written to JE Dunn regarding start times. Rockvam said we need to acknowledge this. Rockvam requested Goman take a copy of this letter to the Wednesday meeting.

Hughes makes a motion and Williamson seconds it that we include the letter in the formal minutes of the meeting and request a formal response from the contractor or the developer at the next meeting. All votes were aye. Motion carries.

Rockvam asked about the meeting requested with Schoell & Madson regarding the water main. Rockvam still is confused as to why the city should pick up the cost.

Adolf said: he tried to address this in his cover letter. This started out in November of 2004. The original water main meandered across Sunset Drive. Lakeview lofts had to reconstruct it to the south. This required making some adjustments. In the fall of 2004, with all the construction activity, Schoell & Madson felt it made sense to bring a new water main across so that The Mist wouldn't have to cross to the west side of Sunset to construct a water main. A jack crossing was put in. The decision was made to shift it six feet further east to avoid utility conflicts and an existing sidewalk. It was anticipated there might be a future relocation regarding The Mist project.

Adolf further said rather than building where it was shown on the plans, when The Mist did the relocation, they put it in a conflicting location. There was discussion and it was agreed to fund part of it. The decision was made in fall of 2004 and there were some concept plans for The Mist. The actuals weren't completed until spring of 2005 or so.

Adolf continued when construction started, there was a conflict with the water main. Last October a meeting indicated it needed to be relocated because it would be under the footing for the retaining wall. So,

the water main was going to be adjacent and as cost effective as possible. The footings were relatively deep and required a lot of excavating. There were two separate operations, the relocate and the retaining wall. A meeting a month ago prompted Adolf's letter and JE Dunn's letter stating they'd pick up the south portion. It was a pro rata split. The question was about who made the decision. Adolf talked to Patton, who does the construction observation, and said it was a joint decision. In hindsight there should have been something else done but, it was not obvious then the retaining wall for The Mist would come so close to the water main.

Rockvam asked why the main got moved six feet closer to the east and Goman said it's because there was a six inch gas line and a telephone line buried. Patton said it was a depth issue because the water main was deeper. He said the end needed to be out further to save those utilities.

Hughes asked the date the County and The Mist agreed to land swapping of this project. Adolf thought the spring of 2003. Williamson said when Goman and Patton made the determination about where the install would occur there weren't any plans, charts or surveys on hand, just concept plans. Once that change was made however, it would have been a good idea to do an as-built to show the change was made. Patton said the last pipe work for The Lofts was not done until December of 2005. He said the as-builts aren't done in phases and they don't get done until everything is connected and is finalized. Patton said during that time Cornerstone did their architecture and engineering and made some assumptions.

Rockvam said Cornerstone wondered where that line was and at that point, who did they ask and what were they told. Rockvam said who did the asking and who was the representative? Goman said the general contractor asks and it's daily, weekly and monthly. Williamson said it might have been bad luck for Cornerstone but, that's the way it goes. Hughes wants to know how far away the water main is to the footing and Goman said they're right next to each other.

Rockvam wondered why there is a premise that the City needs to pay something on this. Reinhardt wondered what the reaction was of Cornerstone when the city said no, they won't pay anything. Adolf said it hasn't gotten to that yet.

Rockvam asked how they located where the main was. Goman said he met with JE Dunn and they were showed gate valves and underground locates by tracer. But, he said, that was as the project was going forward. Half of the south building was up. The footings weren't laid on that end yet. They dug and poured as they worked. The building was well started before they found out the problem existed. Rockvam said it still isn't the City's responsibility. Rockvam said we shouldn't have negotiated our position. The City had no idea they were going to put the building there. Adolf said from their prospective it wasn't shown on the original Loft's plan or The Mist's plan. In the fall of 2004 they had been presenting initial plans. A 106 unit plan was approved in November. There were some plans available although they weren't the final construction plans. Reinhardt asked when Goman and Patton were in the field, how was the decision made where to put the main. Patton said one was based upon the slope. He said if we lost the county road, the costs for jacking or restoration was going to go to The Mist. Patton said they were trying to keep costs down. If they had only moved it two or three feet, it was to save the gas main, phone cables and the county road. They're saying we had the plans and we put the main in and it infringed on their 106 unit project. That would be their stand. Williamson thinks they were playing games for a while. He said it was found out they were planning 120 units instead of 106.

Rockvam asked if there was documentation about the building and retaining wall when the main went in. Adolf said he thinks it's a grey area. Staff pulled out plans from 2004 and if you look closely there were

sidewalks and parallel lines. On the southside they had a variety of planters and stairs and it was more detailed. Rockvam stated unless they can show us a plan stating we encroached, he said we don't have an obligation.

Williamson said we can take a vote to reject compensation or take no action. Rockvam said there's a third thing. They can come in and we can hear their side of it. Hughes asked Weeks if we have a chronological back-log of plans, date stamped, that would support their contention. Weeks said it isn't known whether we have the plans.

Rockvam questioned why we are negotiating this. Goman said it's based on the grey area. Supposedly there was a retaining wall going in but we didn't know the depth of the footing. Rockvam said the total amount is \$10,000. They're not going to sue us for \$10,000.

Motion made by Williamson and seconded by Hughes to reject compensation adjustment from the escrow amount. All votes were aye. Motion declared carried unanimously.

12. Adjournment

Motion by Williamson and seconded by Hughes to adjourn the meeting at 10:47 p.m. All votes were aye. Motion declared carried.

Wendy Lewin
Office Assistant

Sarah Friesen
Administrator/Clerk/Treasurer