

MINUTES
Regular Meeting of Lake Shore City Council
Monday, May 22, 2023
6:00 PM Lake Shore City Hall

Acting Mayor Andy Stewart called the May 22, 2023, Regular City Council meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

Attendance: Council Members: Andy Stewart, Henry Cote, John Terwilliger, and Wayne Anderson. City Attorney Dan Hawley; City Engineer Emma Clarke; City Administrator/Planning Zoning Administrator Teri Hastings; Police Chief Steve Sundstrom; and City Clerk Patti McDonald were present. Mayor John Poston was absent. The audience included Nancy Vogt, Pineandlakes Echo Journal Editor; and Jim Woll, Planning Commission Chair; Colleen Both; Tanner Jacobson, Matt Kremer, Travis Jacobson, Tim Jacobson Co Owners of TM Electric, and Lee and Amy Johnson from Zorbaz; David Winkleman, Winkleman Solar Developers; Fred Heidmann; KC, Nick, and Kristy Moore.

A quorum was present, and the City Council was competent to conduct business.

APPROVAL OF MINUTES

MOTION BY JOHN TERWILLIGER AND SECONDED BY WAYNE ANDERSON TO APPROVE THE APRIL 24, 2023, REGULAR CITY COUNCIL MEETING MINUTES AS PRESENTED. MOTION PASSED.

REPORTS

Police Report – Police Chief Steve Sundstrom

Incident Report – In April 2023 there were 79 incidents in the city. There were 32 traffic-related incidents and 47 were miscellaneous department activity.

April Fire Report – The April Nisswa Fire Department report was included for your review.

Mayor’s Report – John Poston was absent. Acting Mayor Andy said John is recovering from a recent surgery.

Clerk/Treasurer’s Report – Patti McDonald

Financials – MOTION BY JOHN TERWILLIGER AND SECONDED BY WAYNE ANDERSON TO APPROVE THE APRIL FINANCIALS AS PRESENTED (CLAIM NUMBERS 40910 THRU 40974 AND NON-CHECK CLAIMS LISTED TO ATTACHED REPORT – TOTAL \$74,074.96). MOTION PASSED.

Pay Bills – MOTION BY WAYNE ANDERSON AND SECONDED BY HENRY COTE TO PAY THE BILLS AS SUBMITTED (CLAIM NUMBERS 40975 THRU 41053; AND CLAIMS 1210 THRU 1220 – TOTAL – \$104,278.21). MOTION PASSED.

City Administrator/Planning & Zoning Administrator – Teri Hastings

Appeal of CUP-Zorbaz – Teri Hastings staff report indicated the following: The applicant is appealing the decision of the Planning & Zoning Commission on the denial of a Conditional Use Permit for 3 solar carport structures (findings listed below). Initially, the applicant came in for a site plan review in October of 2022 (minutes were sent with council packet).

A conditional use permit/variance application was submitted in December of 2022 which was denied with allowance for the applicant to make application after addressing concerns outlined in the meeting (minutes were sent with council packet).

The Conditional Use Permit was heard again in April of 2023 and was denied on the basis the project did not comply with the City Comprehensive Plan. The staff report did outline information that was still necessary and/or plans that needed to be revised for a complete application but felt those items even if adequately addressed still would not eliminate the issue with not complying with the Comprehensive Plan; therefore, the application was denied.

FINDINGS:

The motion to deny is based upon the belief that the project does not conform to the identified provisions of the City of Lake Shore Comprehensive Plan (listed below).

Land Use/ Planning and Zoning Plan Section

Our community's brand, or identity, is made up of the scenic beauty, recreational amenities, and a rural feel. All new development should reinforce this brand by preserving or enhancing this rural character that distinguishes Lake Shore from other local communities. To maintain this quality of life, the City of Lake Shore's Board of Adjustments/Planning Commission will strive ensure all new developments are compatible with these community desires:

Goals

1. Promote compatible land use development to protect investments and to protect our high quality of life.
2. Support growth patterns that reinforce our lake-oriented and rural development brand.

Infrastructure: Roads & Wastewater Section

Strategies

- Work to retain the rural character of local roadways by developing standards for road design that promote rural character.
- Work with Cass County to classify CSAH 77 as a scenic roadway and to maintain the unique character of the roadway while providing a safe mode of transportation.

Commerce & Technology Section

The City feels that the residential suburban character of the area is not conducive to heavy commercial or light industrial activity. The community endorses commercial endeavors that would integrate with the residential nature of the area.

Strategies

- Review and amend the zoning ordinances as necessary to ensure the compatibility of the businesses with the surrounding residential development and to maintain the lake-oriented and rural feel of the community.

Government Services, Public Safety Section

Goals

Maintain zoning strategies that ensure Lake Shore remains a predominantly residential/recreational community.

Strategies

Maintain Ordinances to ensure that new development and redevelopment is consistent with the Comprehensive Plan.

Teri Hastings supplied the letters that were addressed to the Mayor and City Council regarding the appeal to Zorbaz CUP from Lee Johnson, Tim Moore, Sheila Johnston, Roger and Donn Beaubien. The letters are on file at city hall.

Lee Johnson and Amy Johnson, owners of Zorbaz - Lee summarized the letter he furnished to the council. He stated that solar is the future. He said there are two boat storage buildings, a laundromat and a gravel pit along County 77 and asked why they (the city) are worried about solar carports. He said 340 Kilowatts will be taken off the grid with him being allowed to utilize the solar energy.

David Winkleman, Winkleman Solar Developers. He has been in the solar business since the 1980's. Minnesota has passed a law that the state is using 100% renewable energy by 2040. We need to start reducing pollution wherever we can. The Federal government has issued numerous incentives to move toward renewable energy.

Fred Heidmann, Lost Lake Road, said there are a number of neighbors that don't like the idea of the solar carports. He thinks the solar carport is a wonderful opportunity for the city; there is no better scenario than to have solar above a parking lot, rather than a meadow that would impact the growth of the vegetation. He said a roof is a good place for the solar panels until the roof needs to be replaced due to age. He said it will be a change, but it's not much different than a parking lot; the carport will protect vehicles and organizes the parking. He said everything that surrounds Zorbaz is commercial. He understands that people don't like change; however, he hoped that the city council would overturn the planning commission's decision and allow Zorbaz to move forward, this is probably a perfect time to get this work done while there is disturbance at the same time the trail is being constructed.

Colleen Both said there are rules and a plan in place at this point in time; she feels that they should be followed to reflect the rural and up north look that is referred to in the Lake Shore Comprehensive Plan. Planning and Zoning does their best to follow the plan in place. She said if the plan or rules need to be changed, there is a process for that. She hopes the council upholds the planning commission's outcome.

Fred Heidmann said that carports can be residential, commercial or in some instances, industrial. He said you really don't see carports. He said he sat on the Planning Commission in Nisswa for 8 years and knows that Conditional Use Permits are allowed and they are based on their own merit. He said this solar carport isn't going to change impervious surface or drainage.

Lee Johnson said that the carport is going to look way better than the sea of blue covered boats next to the pole barn laundromat.

David Winkleman said solar development has created, jobs, it has created over 21,600 new jobs in Minnesota in the last ten years. He said the community should embrace the new job creation. Lee Johnson said that Zorbaz has a payroll of over a million dollars.

Jim Woll, Chair of the Lake Shore Planning Commission, said he would like to share some thoughts as to how the commission arrived at their decision relative to the request to the CUP, he offered his thoughts on the appeal letter that was received from Zorbaz, and wanted to outline some possible next steps for council consideration. Teri's report for tonight goes into detail about what the planning commission did and the actions that were taken. He wanted to highlight one section of the Lake Shore Comprehensive Plan that was included in the material prepared for the council.

Land Use/Planning and Zoning Plan Section-

Our community's brand, or identity, is made up of the scenic beauty, recreational amenities, and a rural feel. All new development should reinforce this brand by preserving or enhancing this rural character that distinguishes Lake Shore from other local communities. To maintain this quality of life, the City of Lake Shore's Board of Adjustments/Planning Commission will strive to ensure all new developments are compatible with these community desires:

1. Promote compatible land use development to protect investments and to protect our high quality of life.
2. Support growth patterns that reinforce our lake-oriented and rural development brand.

Jim Woll followed with, after review of all the comments that were received after public hearing, both written and verbal, the currently assigned members of the Planning Commission unanimously voted to deny the conditional use permit for the Zorbaz application.

Jim's thoughts on the letter of appeal the council received was inaccurate in these following areas as the Lake Shore Comprehensive Plan does not prohibit the installation of solar panels in the City of Lake Shore; it does not limit the use of the incentives included with the Inflation Reduction Act of 2022; it does not prohibit landowners from completing environmental, safety or security improvements to their property; it does not limit investment in the Lake Shore Community; it does not contradict the 2040 clean energy goals; and lastly, as Mr. Johnson indicated tonight and mentioned in the letter, there will be significant capital improvements in the City of Lake Shore. There is nothing in the 'Plan' that prohibits significant capital improvements to be made in the city.

Referring to comments from the public hearing saying the 2019 Plan is outdated, Jim stated, that Plan provides the strategic development guidance for the City of Lake Shore, and to the extent that Lake Shore still has it as its strategic guidance for implementation for projects within the city, and until the legislative body decides that it should no longer be the strategic direction of Lake Shore, he thinks the 2019 Lake Shore Comprehensive Plans philosophy is timeless.

Jim Woll stated that the possible consideration for the council is whether or not this city wants to maintain its strategic plan for development based on its lake-oriented nature and rural nature for this community. If so, they should consider whether or not, this project is consistent with the Comp Plan. He also said, there is nothing in the plan that contradicts any State or Federal green energy expectation requirements for the future. He wanted to comment on the use of the term 'industrial'; his past comes from 35 years of running major industrial facilities. In his initial review of this project, he heard terms like, substation, inverters, relays, interconnect agreement, etc. which were used frequently when he was managing these industrial facilities; and his comment he made at that time was 'it has the feel that it could be industrial related'. He thanked everyone for the opportunity to share his comments and the logic behind the Planning and Zoning Commissions decision.

Dave Winkleman responded, asking if the city allows electric power poles alongside the road, if that's not industrial, what is? He gave examples of carports they have installed, and their customers love the look of them. He said the Lake Shore Comprehensive Plan needs to have some changes made to embrace the future.

Lee Johnson said if he has to use a generator, it will have the same equipment to transfer over during a power outage. The same thing Bar Harbor has for its generator, plus all the noise.

Tanner Jacobson, TM Electric, the relays, inverters, components, etc. won't even be seen.

Dave Winkleman received an email today from the State of Minnesota that says MN Power is now required to allow distributed energy/distributed generation of 300 megawatts, so along with all the other investor-owned utilities, everyone is going to be bringing in solar power. Would you rather see fields of solar or little bits here and there that you can barely see. It makes sense to act locally with solar, because then you can backup your own home with a battery.

Wayne Anderson commented on the City's Comprehensive Plan. The typical time to replace a Comprehensive in the State of Minnesota is Plan is 10 years and 2019 isn't that old.

Lee Johnson said that Teri has even said that the plan doesn't address solar.

Teri Hastings said the Comprehensive Plan has a small portion that mentions solar, it could be expanded on. In 2019, solar wasn't as big as it is today, likewise, it will continue to evolve; there's nothing that says the comp plan can't be amended from time to time.

Jim Woll commented that if the question is could a 30-kilowatt solar array system be installed in Lake Shore and be in compliance with the land use plan, he believes it can.

Fred Heidmann said the plan says development should be compatible with the up north feel. He said this is not a new development, Zorbaz is an established business, with an established parking area that wants to put carports in the parking lot that have solar on the top. He said this isn't going to look like a power substation.

Colleen Both said this isn't a small structure, this will be three large carports. The whole parking lot will be covered. She doesn't understand how they can minimize how big they are. Andy Stewart commented that they are actually not that big, he has built one of these. He worked for Great River Energy for 40-years and they put one of these at their facility. Colleen asked what is surrounding that building. It is office buildings, not a residential area. Tanner said coming down the Zorbaz hill, there will be a very brief view of the car ports.

Wayne asked if there will be excess power. Tanner Jacobson said there will be excess power in the summer but will be offset in the shorter seasons. There is distribution for the excess power.

Tim Jacobson said what it really does is it takes the load off the community and helps Zorbaz sustain themselves so there will be more power available to the customers down the line.

Jim Woll said the discussion taking place right now is excellent, and its tremendous justification for the capital expenditure for the project; however, it doesn't address its compliance with the city's land use plan. There's going to be a significant investment, the pay back from the inflation reduction act of 2022 is going to help pay that back and all of that is great, but the council has to think in terms of the plan that we have today and whether or not this project as proposed, with all of its benefits, is consistent with the Comprehensive Plan.

Tim Jacobson commented as an example that when he came up here many years ago in the 1960's and the boats were tied up to the docks. Now you go down the lake and what do you see, the same material that the car ports will be made from, aluminum or steel, boat lifts with boat canopies over the top all the way down the lake. That was significant change when it happened, and we've all accepted it.

Dan Hawley said the council has to affirm or overturn the Planning Commission's decision.

Henry Cote said this could be a comment is truly a double-edged sword situation and as much as he agrees with what has been said about the solar; it is also his job to listen to the people on the Planning and Zoning Commission, and to take his personal feelings out of it. He said we have the chair of the Commission suggesting that the council not overturn their decision of the CUP. So, as a Council Member to just radically go and overrule the decision of the Commission that are just local community members that can be appointed to Planning and Zoning who put all the work into the decision. As much as Henry loves Zorbaz and he agrees with this, he respects the decision to affirm the outcome Lake Shore Planning Commission. He loves going to Zorbaz and he understands what Lee Johnson and the people here with him. Lee Johnson said he was already on the Planning Commission. Wayne agreed with Henry and respects the work the Planning Commission put into their decision.

Fred Heidmann said what he is going to say, may seem harsh, but he feels members of the Planning Commission are biased because they are neighbors of the project.

Henry stands by his decision.

Matt Kremer, TM Electric said he didn't hear, as mentioned earlier, where the solar car ports will impact the quality of life.

Jim Woll said he neglected to mention when talking about the Planning and Zonings decision is that there is a provision in the ordinance that relative to the decision making on the part of the Planning and Zoning Commission that says, as it reviews the Conditional Use Permit, the Planning and Zoning Commission cannot do anything that is contradictory to what's contained in the Comprehensive Plan. They complied with this in their decision.

MOTION BY HENRY COTE, SECONDED BY WAYNE ANDERSON TO AFFIRM THE PLANNING COMMISSION'S DECISION BASED ON THE COMMISSION'S FINDINGS:

The Planning Commission's motion to deny is based upon the belief that the project does not conform to with the below identified provisions of the City of Lake Shore Comprehensive Plan.

Land Use/ Planning and Zoning Plan Section

Our community's brand, or identity, is made up of the scenic beauty, recreational amenities, and a rural feel. All new development should reinforce this brand by preserving or enhancing this rural character that distinguishes Lake Shore from other local communities. To maintain this quality of life, the City of Lake Shore's Board of Adjustments/Planning Commission will strive ensure all new developments are compatible with these community desires:

Goals

1. Promote compatible land use development to protect investments and to protect our high quality of life.
2. Support growth patterns that reinforce our lake-oriented and rural development brand.

Infrastructure: Roads & Wastewater Section

Strategies

- Work to retain the rural character of local roadways by developing standards for road design that promote rural character.
- Work with Cass County to classify CSAH 77 as a scenic roadway and to maintain the unique character of the roadway while providing a safe mode of transportation.

Commerce & Technology Section

The City feels that the residential suburban character of the area is not conducive to heavy commercial or light industrial activity. The community endorses commercial endeavors that would integrate with the residential nature of the area.

Strategies

- Review and amend the zoning ordinances as necessary to ensure the compatibility of the businesses with the surrounding residential development and to maintain the lake-oriented and rural feel of the community.

Government Services, Public Safety Section

Goals

Maintain zoning strategies that ensure Lake Shore remains a predominantly residential/recreational community.

Strategies

Maintain Ordinances to ensure that new development and redevelopment is consistent with the Comprehensive Plan.

MOTION PASSED.

Request to Close City Hall – This year Fourth of July falls on a Tuesday and city hall employees are requesting to close City Hall on Monday, July 3rd. Employees will use a vacation day or accrued compensatory time if approved.

MOTION BY JOHN TERWILLIGER AND SECONDED BY HENRY COTE TO APPROVE CLOSING CITY HALL ON MONDAY, JULY 3RD WITH CITY STAFF USING EITHER VACATION OR COMPENSATORY TIME FOR TIME OFF. MOTION PASSED.

April Minutes and Permit Summary – Teri included the April minutes and permit summary for review.

Wastewater/Road Committee – Wayne Anderson said the committee met May 16th.

Appointment to Wastewater/Road Committee – Terry Hansen has submitted a committee application expressing an interest to serve on the Lake Shore Wastewater/Road Committee.

MOTION BY WAYNE ANDERSON AND SECONDED BY JOHN TERWILLIGER TO APPOINT TERRY HANSEN TO THE LAKE SHORE WASTEWATER ROAD COMMITTEE. MOTION PASSED.

Wastewater Monthly Report – Pequot Lakes – The operations report for May was included for review.

April Minutes – The April minutes were included for review.

Park and Recreation Committee – Henry Cote said the Park and Recreation committee met at Fritz Loven Park to perform the annual park walkthrough. The fishing pier was pretty damaged with the flooding, it will be fixed by Friday this week. They are working on the play area to be ADA compliant. Sandy Beach resort donated the dock sections that they recently replaced to the city for the park. These are being installed in the low/wet areas at this time.

February Minutes – The February minutes were included for review.

Trail 77 – Teri said we have been encouraged to apply for funding this year as there are funds available.

Proposal for Grant Writing Services – To assist in securing the balance of funds needed to complete the Gull Lake Trail portion that runs through Lake Shore, Widseth has provided a proposal to provide professional services of grant writing and engineering to fulfill Lake Shores request for proposal. The tasks would include those necessary for application completion and submission to the Greater MN Regional Parks and Trails Commission. The proposed fee for services would be charged on an hourly basis, based on the 2023 fee schedule with the fees in the range of \$5,000 to \$6,000 including engineering tasks and grant writing services.

MOTION BY JOHN TERWILLIGER, SECONDED BY WAYNE ANDERSON TO APPROVE THE PROPOSAL FROM WIDSETH FOR GRANT WRITING SERVICES. MOTION PASSED.

Resolution 2023-05-01 Authorizing Grant Navigation Support – The League of MN Cites has created a pilot Grants Navigation Program in which LMC will provide grants up to \$5,000 per city to use with industry partners to ease the process of identifying matching funds to city projects and aid in the grant application projects. The program is limited to providing services to help obtain grant funding for one project per city. The city of Lake Shore wishes to apply to the program for support in finding grant funding for the Gull Lake Trail project.

MOTION BY JOHN TERWILLIGER, SECONDED BY WAYNE ANDERSON TO ADOPT RESOLUTION 2023-05-01 AUTHORIZING GRANT NAVIGATION SUPPORT. MOTION PASSED.

Personnel – John Poston/Wayne Anderson – Wayne said the process of succession planning is moving forward.

City Attorney – Gammello - Pearson – Dan Hawley had nothing to report.

City Engineer – Widseth – Emma Clarke had nothing to report.

OLD BUSINESS – There was no old business.

NEW BUSINESS –

Request to Purchase Toolcat – The city received two quotes for a Toolcat. The first is for a 2014 used Toolcat with 210 hours on it and the other is for a new Toolcat. Last year, during budgeting process we discussed purchasing such a machine, but it did not move forward.

With the number of storms and the flooding; it has become very apparent that the city needs to purchase equipment in order for work to be accomplished. The Toolcat is becoming the municipal tool of choice because of its versatility. The versatility will allow the Toolcat to be used more than city truck; the city can then defer replacing the truck for quite a few years. The Toolcat uses the same attachments as a bobcat. These attachments can be purchased or rented from local dealers.

Currently, Roger has no viable way to maintain the trails in the park. The trails need to be clear of fallen branches and other debris. It is unacceptable for the city to assume that Roger can carry a chainsaw and other equipment throughout the trail system (park trail map was included in council packet). Previously, the former public works employee used his own four-wheeler to access the trails. In addition, the city needs to replace the donated dock sections that are used to traverse the wetland areas. In order to move these dock sections, small equipment is needed to get the dock sections back to the low areas of the trails.

This past week, the Toolcat was rented to move the dock sections in the park, repair the fishing pier damaged by the flooding but it was also used to push back the brush piles at the old city dump, level out the front lawn of city hall and spread the old pile of dirt, haul the cracksealing pot for cracksealing the roads.

Overall, the city and staff have been prudent in their spending (as we should), but this equipment is a definite need for the city. The past two years, Roger has done the cracksealing for the city (one of the best jobs in my opinion) which has saved the city approximately \$20,000-\$25,000 yearly.

The City has \$45,688 in equipment capital outlay and \$47,000 in maintenance truck capital outlay for 2023; Teri recommends that the Toolcat be paid from these two accounts (50/50).

Wayne asked if the rental can be kept until a new Toolcat is delivered.

KC Moore wanted to make the council aware that the Toolcat is too wide for parts of the trail system.

John Terwilliger talked with the Nisswa maintenance department and they have had maintenance problems with one they have had.

Wayne Anderson said that he spoke with the Carr's Tree Service crew and they wouldn't have anything else over the Toolcat, they have about 30 Toolcats.

Teri mentioned the surrounding cities that are purchasing the Toolcat.

MOTION BY JOHN TERILLIGER, SECONDED BY WAYNE ANDERSON TO AUTHORIZE THE PURCHASE OF THE NEW TOOLCAT AS PRESENTED. MOTION PASSED.

Teri is talking to Sourcewell to get additional funding to help off set the cost of the Toolcat.

The grant for the radios was approved. It will be presented in July to the council

ANNOUNCEMENTS/PUBLIC FORUM – Nick Moore asked if Zorbaz comes back with the same plan as before, would the city be liable having a portion of the carport within the right-of-way. Dan Hawley said that that is a county road and they would have to have that discussion with them.

MOTION BY HENRY COTE, SECONDED BY WAYNE ANDERSON TO ADJOURN THE REGULAR CITY COUNCIL MEETING OF MAY 22, 2023, AT 7:29. PM. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk