

**MINUTES**  
**Regular Meeting of Lake Shore City Council**  
**Monday, March 26, 2012**  
**7:00 PM Lake Shore City Hall**

Mayor John Terwilliger called the March 26, 2012 Regular City Council meeting to order at 7:00 p.m. The pledge of allegiance was recited.

**Roll Call:** Mayor John Terwilliger. Council Members present: John Bukovich, Susan Amacher, Doug Miller and John Poston. City Attorney Steve Qualley; City Engineer Dave Reese; Police Chief Steve Sundstrom; City Administrator/Planning and Zoning Administrator Teri Hastings; Public Works Jim Thomes and City Clerk Patti McDonald were present. There were 25 people in the audience.

**GUEST:** Chief Sundstrom introduced Frank Scherf – Office of Traffic and Safety Division to talk about Safe and Sober, now known as the Towards Zero Death Program. He read excerpts of a letter from the Department of Public Safety sharing some results of the 14 day enforcement period for seat belt safety. One of the goals of the OTS is to have 150 fewer deaths before 2014. Annually nearly 75% of the deaths are in greater MN. There are four main contributors to crashes resulting in death are speed, impaired, distracted and not belted drivers. Steve was awarded an \$1,800.00 radar for the new squad car.

**APPROVAL OF MINUTES**

MOTION BY DOUG MILLER TO APPROVE THE FEBRUARY 27, 2012 MINUTES AS PRESENTED. JOHN POSTON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**REPORTS**

**Police/Fire Report** – Chief Steve Sundstrom

Incident Report – From February 27, 2012 to March 25, 2012 there were 88 incidents in the City. There were 52 traffic-related incidents and 36 were miscellaneous department activity.

**Mayor's Report**– John Terwilliger

**Clerk/Treasurer's Report** – Patti McDonald

MOTION BY DOUG MILLER TO APPROVE THE FINANCIALS AS SUBMITTED. JOHN POSTON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

2012 Liquor License Renewals/New Application - Zorbaz submitted the proper applications for renewal of their On-Sale, Off-Sale, Sunday Liquor and tobacco licenses. Bar Harbor submitted the proper application for On-Sale, Off-Sale and Sunday Liquor. Lost Lake Lodge submitted the proper application for On-Sale and Sunday Liquor.

MOTION BY SUSAN AMACHER TO RENEW THE LIQUOR AND TOBACCO LICENSES FOR 2012 FOR ZORBAZ; AND LIQUOR LICENSES FOR BAR HARBOR AND LOST LAKE LODGE AS THEY HAVE SUBMITTED THEIR PROPER APPLICATIONS AND ARE NOT DELINQUENT IN ANY WAY TO CASS COUNTY OR THE CITY OF LAKE SHORE. JOHN BUKOVICH SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY

There is one new application for Sherwood Forest Tavern; Mike Mulroony has completed the proper application (pending buyer's card number). The Sherwood Forest Tavern application was turned over to the Police Chief for the required background check.

Teri's staff report indicated the following: Teri attached 11 emails (there were 3 more mails) the city has received regarding the liquor license for Sherwood Forest Tavern. In addition to the emails she has had

property owners within close proximity to the property inquire about the liquor license and express concerns with noise.

Sherwood Forest Tavern while being zoned neighborhood commercial, is located amongst one of the most populated residential areas of the city. In order to protect the peace, tranquility, order and comfort of the properties in the immediate vicinity the following conditions on the liquor license are recommended:

- No outdoor amplification, music, live bands are allowed.
- No alcoholic beverages and dining are not allowed on the deck after 10 pm.
- Review of conditions for modifications at annual renewal in 2013.

Mike Mulroony came before the City Council to explain the type of business he is planning to open. The restaurant is a casual dining experience for locals and vacationers. He said that he doesn't want to create a bar atmosphere. The deck is to have an outdoor dining experience when the weather allows. He said it would be detrimental to the business to restrict serving to an earlier time. He said there isn't a plan for music or entertainment on the deck. Sometime down the road he may have an acoustical show which would not go past 10:00 p.m. He said it would be difficult to go up to a guest at 9:45 p.m. to tell them they have to go inside where there may be a place for them or not. He said it is intended for a casual dining experience.

The Mayor asked for comments from the council; he said that one of the main concerns was 2:00 a.m. closing and Mike's application is for 1:00 a.m. Another concern is the type of music. Mike said it would be easy listening music from XM Radio. Mike owns an Irish Pub in Minneapolis and doesn't intend on this being a college crowd Irish Pub. He said he isn't after the stereotypical Irish Pub atmosphere. Parking is an issue, but Teri doesn't have a finished parking count due to the remodeling. She said there is plenty of property to accommodate more parking. Mike thinks there is sufficient parking for the seating he will have. Doug Miller asked if the deck would be screened in. Mike said he is putting a trellis across 80% of the deck. Doug asked if there would be mosquito control as the mosquitos will impact dining on the deck in the evening. Mike said he may, but doesn't know what type of control he will use.

Mike said that he has a lot of experience with working in the City of Minneapolis and in the neighborhood; it is his goal to work with the Lake Shore community and neighborhood. He understands the peaceful environment that the neighborhood is worried about as he has been coming to the area since the 1970's. He feels the type of restaurant he is opening will fit into this area. His manager's Brian and Michelle are relocating to live in the community.

John Bukovich asked the size of the deck and how many people are allowed by the state. The deck is 58' X 37'. Mike hasn't planned his seating for the deck yet. Commercial building code allows 100 lb per square foot load which would allow 1 person per 15 square feet for seated space and goes as low as 1 person per 5 square feet standing. The deck is 2000 square feet which would allow 133 seating spaces; 400 standing room spaces besides the amount in the restaurant. City ordinance requires 1 parking space for every 3 seats and at full seating capacity the deck alone would require up to 40 parking spaces plus one space for each worker on the deck.

John Terwilliger said that Council Member John Poston will not vote as he is the owner of the Sherwood Forest property.

Len Skluzacek (8791 Lincoln Green Road) - He is speaking for the Severson's at 8755 Lincoln Green Road and the Larson's at 8821 Interlachen Road - He wants to keep the peace and tranquility of the neighborhood. He said that over the years the hours of the restaurant didn't disturb the quiet solitude while he was on the deck or on his dock. He is concerned for the noise and is concerned with the ability to have the windows open. Another concern is for safety both the road and lake access, music noise level. The size of the deck and the amount of people allowed is a concern for the noise; he said what is

allowed will set precedence. He is concerned that a permit wasn't obtained before construction of the deck was started. Teri said that the construction was ceased immediately when they were made aware that they needed a permit. Len is asking to the council to protect the safety, peace and tranquility of the neighborhood. He is also concerned with the amount of parking. He encourages the council to vote against the liquor license, especially outdoors sales.

Dave Brown (Sherwood Forest Resort Cabin 3) is also concerned about the peace and tranquility. He asked if there is a planned cabana bar or food preparation on the deck. Mike Mulroony said there is no plan to have a cabana or cooking on the deck. There are no plans for a wet bar or cooking on the deck right now. There are plans for a gas fire place in the future.

Robert Peterson (8783 Lincoln Green Road) said that the window of opportunity for food sales on the deck that Mike Mulroony refers to is the same opportunity they have to enjoy their cabin. Robert referred back to concerns that have happened over the years since the Nolan's opened the restaurant. He said there are issues that can't be controlled by any owner of the property, regardless of signs being posted, there are people that go down to the lake which is trespassing; he is very concerned about a confrontational crowd. The public access is a concern too. John Bukovich said that over the years he didn't have problems at the access that are documented. John said that when there is a problem call the police department. There is also water patrol available. Robert said that during the Grand View years they didn't have the same problems from years past. Mike Mulroony said it isn't difficult to work with the Chief of Police and is committed to help find solutions to address the situation.

Sonja Larsen (8821 Interlachen Road) asked about how many police calls are made in Minneapolis to Blarney's. The Chief said there is no comparison to a bar in Minneapolis. Mike Mulroony said that he has a great working relationship with the 2<sup>nd</sup> precinct and the university police. There are four other bars in the area with a youthful crowd; he said if there are issues they call the police. Mike said he isn't going after a crowd like Zorbaz. The Chief said he encourages all liquor establishments to call the police if they have problems. John Bukovich said that Steve signs the liquor license application; he visits every bar even after hours.

Nate Thompson (Cabin 7 at Sherwood Forest) has 9 year old twin sons and is very concerned about the noise; people walking through the property at night. He welcomes the business into the area. He respectfully asked for a compromise for the deck closing at 10:00 p.m.; the cabins are approximately 100 feet from the deck. Nate said that he received a nice letter from Mr. Mulroony explaining the type of business he would operate. There have been numerous liquor license violations with the City of Minneapolis. John Bukovich said that the Chief did the required background check and there is nothing that would cause the City of Lake Shore to deny Mike Mulroony a liquor license.

Ingrid Anderson (8832 Interlachen Road) shared that when Jerry Thompson owned the restaurant she worked to get the building on the national register of historical places. She is concerned about the deck addition. Teri contacted the National Historical Register and the addition of the deck is allowable. Ingrid wanted to share a comment from that when the Nolan's were trying to get a liquor license which was a comment 'if they wanted to live on Hennipin Ave, they would'. They come here for the peace and quiet.

Susan Poston (8607 Nottingham Road) said that she wanted to address a trespassing concern that she had to report to the police department and they took care of it right away to her satisfaction. She said that they bought Sherwood Forest about a year ago and feels that they have been good neighbors to Sherwood Forest residents. She said that they are willing to work with Mike Mulroony if he needs more parking spaces. She said that the other bars are near residential areas and Sherwood Forest Tavern deserves a chance to open the business.

Robert Peterson asked about the impervious surface available for added parking space. Teri said that there is sufficient land to expand the parking area if needed. The Chief said that there may be initial parking issues which will slow down after the newness wears off.

John Bukovich asked if the fire place would be a fire place or a fire pit. Mike's vision is a gas fire place on one end or the corner of the deck.

Dave Brown said he wants to make sure the residents concerns are known; he said they don't want the establishment not to open. John Bukovich said that if there are documented problems with the business the issues can be brought before the city council for review.

Doug Miller asked Steve or Teri to explain the noise ordinance. Steve said the commercial noise level is measured by decibels and the city will measure noise at the property line which is to be kept under 60 decibels from the property line.

Kenny Behling (Cabin 8 Sherwood Forest) the association president said that he lives 150 feet from the deck. He has twin 14 year old daughters. He said they are not against the bar, the deck is right against the building and the noise will bounce right off the building.

Bill Curtis (Cabin 6 Sherwood Forest) said the closest cabin is 105 feet from the deck and there are toddlers in that cabin. The cabins are not insulated and the windows have to be open when it is hot. John Bukovich suggested working with Mike Mulroony with concerns. There could possibly be trees planted between the homes and the tavern to help with the implied noise issues.

Can the license be granted with the limitation of 10:00 p.m. closing? It was a recommendation on Teri's staff report.

MOTION BY SUSAN AMACHER TO APPROVE THE SHERWOOD FOREST LIQUOR LICENSE WITH THE CONDITIONS NO OUTDOOR AMPLIFICATION, MUSIC, LIVE BANDS ALLOWED ON THE DECK. NO ALCOHOLIC BEVERAGES AND DINING ON THE DECK AFTER 10:00 PM. REVIEW CONDITIONS FOR MODIFICATIONS AT ANNUAL RENEWAL IN 2013. JOHN TERWILLIGER SECONDED THE MOTION. John Terwilliger asked about no music. Susan said low ambient music would be fine. Doug Miller asked if the deck had to be cleared after 10:00 p.m. Smokers can still be allowed on the deck with no alcoholic beverages. Mike Mulroony is willing to accept the no outdoor amplification of music. He is not willing to accept no alcoholic beverages or dining on the deck after 10:00 p.m. He said he would agree to limit the seating on the deck after 10:00 p.m. He is willing to plant trees to help with the noise level. Doug Miller said the noise ordinance needs to change if it isn't controlling the noise issues; he doesn't think conditions should be attached to the liquor license. JOHN BUKOVICH VOTES NO, DOUG MILLER VOTES NO, SUSAN AMACHER, YES, JOHN TERWILLIGER, YES, MOTION FAILED. John Poston didn't vote.

MOTION BY JOHN BUKOVICH TO APPROVE THE LIQUOR LICENSE AS PRESENTED AND ALLOW DINING AND BEVERAGES ON THE DECK; REVIEW THE LICENSE IN THREE MONTHS. DOUG MILLER SECONDED THE MOTION. MOTION PASSED. John Poston didn't vote.

Resolution to Re-establish Voting Precincts – Each city must pass a resolution before April 3, 2012 to re-establish voting precinct boundaries even though there are no changes.

MOTION BY JOHN POSTON TO ADOPT RESOLUTION # 2012-03-01 RE-ESTABLISHING VOTING PRECINCT BOUNDARIES. DOUG MILLER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**City Administrator/Planning & Zoning Administrator – Teri Hastings**

Rezoning Request: Brent Anderson – Teri’s staff report indicated the following: The applicant has submitted a rezoning request that involves approximately 10 acres of land that is currently zoned Agricultural. The applicant is proposing to have the property rezoned to Wooded Residential. The minimum lot size for Wooded Residential is five acres. The applicant appeared before the board in 2004 with a rezoning request to R-1 (40,000 sq ft) however, that request was denied. The 2004 request is attached for the commission’s information along with the minutes.

The criteria for rezoning or classifying property are listed in Section 5.1 (6) A-P of the ordinance.

The zoning of the surrounding property is indicated on the attached map. The surrounding property is held in single ownership however, the property directly across County 78 is city owned. The property is used for the city’s wastewater treatment facility.

It appears there are no significant historical sites on the property or sensitive areas such as wetlands. The property to be rezoned does not abut lakeshore.

The property is wooded. The topography of the property does not prohibit development. The property is not being used for agricultural purposes.

The property to be rezoned is adjacent to County 78 and is maintained by Cass County. The property currently has two dwellings on it. A dwelling permit was issued in 2008 without the knowledge of trailer located on the back half of the property. There is no permit for the trailer or septic information. I do not believe the county was aware of the trailer since an address was not assigned to the property in 1999. Currently both structures are being taxed. A compliance inspection on the trailer is mandatory. An easement is needed to access Tract A and is shown on the survey.

The property to be rezoned is served by sub-surface treatment systems (on-site septic system). According to information in the file, the area has suitable soils for on-site septic systems.

There are no known areas of significant historical or ecological values of the area that would prevent it from being rezoned.

The rezoning would not create a spot zone. The property located directly east and south is zoned Low Density Residential. The property to the north and west is zoned Agricultural. The property to the southwest is zoned Wooded Residential. It would appear the wooded residential zoning would be a good fit given the surrounding land use and provide the transition from R-1 to AG.

**STAFF RECOMMENDATION**

This rezoning request meets the criteria within the ordinance for rezoning. The rezoning request will create a transition from the R-1 district to the east and the Ag district to the west. The Planning Commission is recommending approval of the rezoning request.

In addition, the applicant applied for a lot split in conjunction with the rezoning. The lot split was approved contingent upon the rezoning being approved along with conditions and a revision of the lot configurations to meet the ordinance requirement. Teri said she had one comment from Rita Sorenson and she doesn’t oppose the request. Teri said that the trailer was probably placed on the property before Brent Anderson bought the property.

Doug Miller said it appears that the property is long and narrow and was concerned about a cartway. Teri said there would be no cartway issues.

MOTION BY SUSAN AMACHER TO APPROVE THE REQUEST OF BRENT ANDERSON TO REZONE APPROXIMATELY 10-ACRES FROM AGRICULTURAL TO WOODED RESIDENTIAL AS THE REQUEST MEETS THE CRITERIA WITHIN THE ORDINANCE FOR REZONING. JOHN POSTON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

EDC Activity Report – The March 1<sup>st</sup> News Flash was included for review. The most recent addition was also set out.

February Permit Summary – The October 2011 minutes and the February permit summary were included for review.

Teri reported for the Stakeholders committee that the Linking Clean Water and Land Use workshop invitations have been emailed/mailed. The workshop is April 10<sup>th</sup> and Teri is encouraging council members to attend.

The trail committee met and set the first public hearing is set for May 31<sup>st</sup> at 6:30 p.m. at city hall.

**Wastewater/Road Committee** – John Bukovich

Lost Lake Road – Tree – John Terwilliger said that there is a hump on Lost Lake Road which impairs a resident's driveway. He would like to talk to the property owner before the tree would have to be cut down. Jim said he measured and the tree is 4 feet from the edge of the black top. The committee made the recommendation to remove the tree and cut the crest down for safety reasons.

Dave Reese said that the cost estimate per the current preliminary plans including cost for the following options pertaining to improving the site distance near the large white pine on the straight-a-way:

1. Cut the crest down approximately one foot and removing the 30-inch diameter white pine that is approximately 4 feet from the edge of the existing pavement surface.
2. Maintain the current elevation near the tree, leave the tree, and fill on each end of the crest to improve site distance.

The total estimate for probably construction cost is \$10,700.00. The Mayor suggested leaving the road and the tree the way they are. Steve Qualley said that should it arise the acquisition of property would take a minimum of 90-days.

MOTION BY JOHN TERWILLIGER TO LEAVE THE TREE ALONE AND FIX THE BLACK TOP AROUND IT. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

February Minutes – The February minutes were included for review.

**Park and Recreation Committee** – John Poston said the committee didn't meet. They are still looking for committee members and a chairperson.

**Environmental Committee** – Doug Miller said the committee didn't meet, but are continuing to move forward with the workshop.

**Personnel** – John Terwilliger/Susan Amacher – There was no personnel business for the month.

**City Attorney** – Gammello & Qualley – Steve Qualley

Cable Franchise Ordinance - Steve Qualley said that the Franchise expires in 2014 and if there are questions or concerns before the public hearing he could put together the changes. John Terwilliger said that there are communications through their phone lines which would make it (not) exclusive. Pg 3 initial franchise (was) 15 years. Pg 4 the rates are not current rates. Pg 6 #30 should be constructed and

take out the construction schedule. Pg 7 (34.2) any person or entity that damage the property is responsible for the damage. Patti asked if a copy of the draft should be forwarded to Charter. Steve said he will forward a copy to Charter. Steve said if there are any costs incurred such as attorney or public hearing costs they can be recouped from Charter.

**City Engineer** – Widseth Smith Nolting – Dave Reese had nothing more to report.

**OLD BUSINESS** – John Bukovich asked if there is still a one-way road sign to leave Sherwood Forest. Steve said it was a ‘no right turn sign’ and the sign is no longer there. Teri said that the rain garden project is right at the place where the trespassing may take place. Teri said that if a split rail fence was put up it would deter the parking on the right of way. Steve said that if Mike Mulroony runs the bar as he stated, there should be not problems.

**NEW BUSINESS** – John Poston said there are signs popping up all over town again. Teri said that Jim can pull the signs when he sees them.

**ANNOUNCEMENTS/PUBLIC FORUM** – Reminder: Board of Review April 12, 2012 at Noon.

**MOTION BY DOUG MILLER TO PAY THE BILLS AS SUBMITTED (CLAIM NUMBERS 30394 THROUGH 30469 - TOTAL \$62,656.75). JOHN POSTON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

**MOTION BY JOHN BUKOVICH TO ADJOURN THE REGULAR CITY COUNCIL MEETING OF MARCH 26, 2012 AT 9:04 PM. DOUG MILLER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

Transcribed by Patti McDonald  
Lake Shore City Clerk