

CITY OF SHOREWOOD
CITY COUNCIL REGULAR MEETING
MONDAY, MAY 12, 2025

5755 COUNTRY CLUB ROAD
COUNCIL CHAMBERS
7:00 P.M.

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING

Mayor Labadie called the meeting to order at 7:03 P.M.

A. Pledge Of Allegiance

B. Roll Call

Present: Mayor Labadie; Councilmembers Maddy, Sanschagrin, and Gorham; City Attorney Shepherd; City Administrator Nevinski; City Clerk/HR Director Thone; Planning Director Griffiths; Director of Public Works Morreim; Park and Recreation Manager Czech; Finance Director Schmuck, and, City Engineer Budde

Absent: Councilmember DiGruttolo

C. Review Agenda

Sanschagrin moved, Maddy seconded, approving the agenda as presented.

Motion passed.

2. CONSENT AGENDA

Mayor Labadie reviewed the items on the Consent Agenda.

Councilmember Sanschagrin referenced item 2.H. and noted that Commissioner Eggenberger had offered to continue serving on the Commission until a replacement could be found, and asked if that would cause any issues. City Administrator Nevinski answered that it was not an issue.

Maddy moved, Gorham seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.

A. City Council Work Session Minutes of April 28, 2025

B. City Council Regular Meeting Minutes of April 28, 2025

C. Approval of the Verified Claims List

D. Athletic Association Agreements

E. Accept Resignation/Approve Recruitment: PW LEO Position

F. Accept Resignation: Community Center Attendant

G. **2025 Mill & Overlay HCRRRA Permit, City Project 24-10, 23-01**

H. **Accept Resignation: Planning Commissioner Todd Eggenberger**

Motion passed.

3. MATTERS FROM THE FLOOR

4. REPORTS AND PRESENTATIONS

A. Public Works Week

Public Works Director Morreim explained that National Public Works Week would take place May 18 – 24, 2025, in recognition of the essential role Public Works professionals play in the community. He shared a brief presentation about the City's twelve full-time and three seasonal Public Works employees and what they do around the City. He explained that the City had two Public Works staff members who were on-call 24/7 in case something happened in the City that needed attention.

5. PARKS

A. Report by Commissioner Hirner on April 22, 2025, Park Commission Meeting

Park Commissioner Hirner gave a summary of the April 22, 2025, Park Commission meeting, as outlined in the meeting minutes.

Mayor Labadie asked about the upcoming Park Tours and whether they would continue, to which Park Commissioner Hirner replied that the current plan was to merge the tours in 2025 as part of the Parks Master Plan planning process.

6. PLANNING

**A. Shorewood Carriage Homes PUD/Preliminary Plat
Applicant: Admark, LLC/Mark Kaltsas, PLA
Location: 24560 Smithtown Road**

City Administrator Nevinski explained that City Attorney Shepherd and City Engineer Budde had recused themselves from this item, due to some conflicts of interest on this item. He stated that Scott Baumgartner, was available to represent the City in this matter, via Zoom, and noted that Barr Engineering was not present, but had put together a memo related to this application.

Planning Director Griffiths reviewed the application request for Shorewood Carriage Homes PUD/Preliminary Plat for Admark, LLC/Mark Kaltsas, PLA at 24560 Smithtown Road for a six-lot subdivision and highlighted the discussions and recommendations from the Planning Commission to approve the request.

Councilmember Gorham stated that when this item came before the Council last year, there was discussion about the driveway dimensions and requested a comparison of those numbers. Planning Director Griffiths explained that at the last meeting, the Council had discussed the depth of the driveways for the homes and that there should be enough space for residents to park a

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vehicle. He noted that the Council required the depth of the driveways to be twenty feet, and the applicant was meeting that requirement with their current proposal, which would be wide enough for two cars and would also provide garage space. He explained that the previous Council approval had language that staff will ensure gets into the HOA documents and covenants requiring that the garage space be partially kept for parking vehicles, so they did not need to rely on using the driveway.

Maddy moved, Gorham seconded, Adopting RESOLUTION NO. 25-046, “A Resolution Approving a PUD Development Stage Plan and Preliminary Plat for the Property Located at 24560 Smithtown Road.”

Motion passed.

**B. Vacation of Easement
Applicant: Heidi and Craig Johnson
Location: 27940 Smithtown Road**

Planning Director Griffiths reviewed the request from Heidi and Craig Johnson for a vacation of easement at 27940 Smithtown Road and explained that this was being done to clean up the title for the property, and noted that the Planning Commission had unanimously recommended approval.

Councilmember Maddy asked if the City was maintaining the ten-foot drainage and utility easement on the entire perimeter of the property, to which Planning Director Griffiths responded that the City would maintain that easement.

Maddy moved, Sanschagrín seconded, Adopting RESOLUTION NO. 25-047, “A Resolution Approving Vacation of a Portion of the Drainage and Utility Easements at 27940 Smithtown Road.”

Motion passed.

**C. Fence Height Conditional Use Permit
Applicant: Richard Pearce
Location: 5905 Grant Street**

Planning Director Griffiths outlined the application from Richard Pearce for a Conditional Use Permit (CUP) for fence height at 5905 Grant Street and explained that the fence had already been built. He noted that there were several comments from the public at the Planning Commission meeting, and the City had received two additional comments after the Council packet was put together, which had been distributed before the meeting. He stated that the residents who addressed the Planning Commissioner were generally in support of this request, and most had also submitted written comments and explained that the Planning Commission unanimously recommended approval.

Councilmember Sanschagrín asked why this would be a CUP and not a variance request. Planning Director Griffiths explained that the City's Zoning Code directed this to be a CUP and not a variance. He asked if staff had any pictures of the situation referenced by one of the comments from Kiersa Notz, that her fence was six feet high, and Mr. Pearce's fence would be higher.

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Planning Director Griffiths stated that they did not have a picture of that situation and noted that he could explain the comment from Ms. Notz in more detail. He explained that Ms. Notz lives north of the site, and it was explained at the Planning Commission meeting that they were under the impression that a new fence would be built that may directly impact her property, but the portion of the fence they were talking about was located in a different location. He stated that he believed that Ms. Notz had misunderstood the application and noted that he had tried to reach out to her between the meetings, but had not received a response.

Councilmember Sanschagrín noted that there was another pretty strong communication that had done a full analysis of the variance criteria and asked if staff had any response to some of their comments.

Planning Director Griffiths stated that even though the Planning Commission had not received that comment at their meeting, they did consider the fence and the photos relative to the CUP criteria, and they determined that it did not pose a significant impact to the adjacent properties. He noted the reason this was before the City was that, rather than having a hill in this location where they could put footings in for the fence, there was a retaining wall.

Councilmember Gorham asked if the City had heard from the property owner on the left side of the photo of the fencing.

Planning Director Griffiths explained that the longer comment that was received between the meetings was from that property owner who was in opposition and gave an overview of some of the items that could be seen from the photograph of the fence.

Councilmember Gorham asked how much privacy would be lost if the fence, in this location, were shortened to six feet for the applicant.

Planning Director Griffiths suggested that the Council ask the applicant those questions.

Councilmember Gorham asked about the notice of violation that had been sent to the applicant, to which Planning Director Griffiths replied that he had sent it last fall, when he was working under former Planning Director Darling.

Planning Director Griffiths stated this fence looked to be six feet tall from one side of the fence and eight and a half feet tall from the other side of the fence and explained that when former Planning Director Darling was reviewing the fence plans when the applicant had applied for a permit, the plans showed that it was a six foot tall fence. He stated that because of that, former Planning Director Darling had issued the fence permit, but then realized that there had been a miscommunication regarding the drawings, and the fence did not meet City Code requirements. He explained that when staff reached out to the applicants about this issue, they chose to pursue the option of applying for a CUP to try to legalize the fence that had already been built.

Councilmember Gorham stated that it appeared to be an honest mistake and asked if a complaint had been issued that had triggered the notice of violation, to which Planning Director Griffiths replied that the City had received a complaint regarding the fence.

Councilmember Maddy asked if the applicant was required to rectify this situation, how much of the fence would have to have two and a half feet removed.

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Planning Director Griffiths explained that he did not know the exact linear footage, but it would at least be the first four fence panels shown in the photograph, starting from the right side, where the retaining wall was located, because once the fence reached the natural grade, it met the City's requirement.

Councilmember Gorham stated that it would not look very good and asked the applicant about what was located in the foreground of the photograph.

Richard Pearce, 5905 Grant Street, gave a brief explanation of what was located in the backyard and stated that if Councilmember Gorham's question related to privacy and why they put in a fence, there was a fence there before. He explained that they have lived on this property since 2015, and stated that they tore down the original home and built a new home, and noted that the previous fence was taller than this fence. He stated that the previous home had a fence and a structure located in this section that looked like a chicken coop, which stored construction materials. He stated that the person who complained about this fence had complained about several different things since they built their new home and explained that when they built their new home, that neighboring property had a sewer line that went through their property which they did not know, so it ended up being accidentally cut during excavation, because nobody knew it was there because there was not an easement for it. He stated that they have been harassed by this neighbor for the last two and a half years, since they built their new home. He asked if he could object to the neighbor's email submission because he had not seen it until he walked into the meeting. He explained that he did not have an opportunity to prepare a response, but in reading through it, some of the things that were mentioned related to safety, and he pointed out the location of the neighbor's driveway. He stated that the neighbor had not presented any photos of icy conditions because it was a contrived concern and explained that the snow shown in the photograph was the neighbor's snow that he had blown into the area, and that any safety issue that may be present was created by the neighbor. He stated that the Planning Commission looked at this situation and determined that there were no significant impacts on any of their neighbors.

Councilmember Sanschagrín asked whether the fence was constructed on the property line, to which Mr. Pearce replied that it was not on the property line and was within the setback distance required.

Mr. Pearce stated that this was an honest mistake and noted that everyone else in the neighborhood felt that the fence was beautiful, except for one neighbor.

Councilmember Maddy asked if the retaining wall and the fence posts were all located on Mr. Pearce's property, and Mr. Pearce confirmed that they were on his property.

Mayor Labadie noted that the City had received one letter in opposition to this request, but had received many letters in support of it, nor did anyone speak out against it at the public hearings. She explained that she was also leaning towards the thought that this had been an honest mistake.

Councilmember Sanschagrín stated that there had been other situations where honest mistakes were made, but the City had been aggressive in enforcing the City's fencing regulations, and that if these were allowed, he was concerned that the City was not being consistent in how it looked at fences.

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Councilmember Gorham asked for details from the Planning Commission discussion and what items they had debated.

Planning Director Griffiths stated that following the public testimony on this item, which was large in favor, the Planning Commission had discussed the concern raised by Councilmember Sanschagrín regarding different applications. He explained that they concluded that, in this situation, there was a unique enough layout to the land, that it was only an issue because of the retaining wall. He stated that part of the reason why the City's Code has a maximum height of six feet for fences was because if you go larger, it technically becomes a wall by the Minnesota State Building Code, which requires a building permit and structural certification from a licensed engineer. He explained that the applicant had provided structural certification from an engineer to the City, so the Planning Commission felt comfortable with this request because the applicant had invested in hiring a structural engineer to verify that the fence would work in its current form, without any modifications, and had unanimously recommended approval.

Councilmember Gorham gave the example of a situation where the retaining wall was six feet tall and asked if, in that situation, they would not be able to install a fence at all.

Planning Director Griffiths answered that it was how the City Code read, so they would not be able to install a privacy fence because, in that scenario, they would consider the entire height.

Councilmember Gorham stated that this was an honest mistake, but that did not mean it was okay and, for consistency's sake, the fence should be lower, even though he sympathized with the applicant.

City Attorney Shepherd stated that the discussion from Councilmembers Sanschagrín and Gorham regarding consistency, and noted that the other issue the City has had in front of them in the past has been encroachments into the right-of-way with fences and not applications under this provision that allowed them to make an application for a CUP. He explained that he wanted to make sure the Council distinguished between those because they are different, and did not believe the Council had had one with a CUP. He stated that they both involved fences, but the City Code gives the City a pathway to allow a fence of a greater height under the CUP.

Mayor Labadie noted that this type of application was decided on a case-by-case basis and asked if City Attorney Shepherd was concerned about this particular fence setting a City-wide precedent, to which City Attorney Shepherd replied that he was not concerned about setting a precedent.

Councilmember Maddy stated that the way this fence has been installed looked completely reasonable to him, and he was comfortable with this request and would have been okay with it if Mr. Pearce had applied for it before the fence was installed as well.

Councilmember Sanschagrín explained that his concern was also due to the adjacent property owner, who objected and noted that it seemed cramped in this area.

Mr. Pearce described what was in place on the adjacent property and noted that at one time, the neighbor's structures had been built on the property line without proper setbacks. He stated that it was likely that they were here now because the neighboring property owner had gotten away with quite a few things in the past. He clarified that he had gone through the proper processes with the City and applied for all the necessary permits and had followed them to a 'T' and was now here because of the reasons he shared earlier. He explained that if he had to cut down this

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portion of the fence, it would be a four-foot-high fence, and he would lose his privacy. He noted that the adjacent property owner applied for a fence right after he had applied for a fence, and their application contained a fence that was solid and was proposed to be on his property in certain sections, and the City denied their application. He stated that he did not think the Council should be concerned about the one objection to his fence because it stemmed from the grievance of when he first built his home and was without merit.

Councilmember Sanschagrín stated that the nice side of the fence was facing Mr. Pearce's property. Planning Director Griffiths clarified that the finished side of the fence was facing away from Mr. Pearce's property and was not facing Mr. Pearce's property as stated by Councilmember Sanschagrín.

City Attorney Shepherd stated that he agreed with Planning Director Griffiths that in the future, rather than going through the CUP process, the City should probably move to a variance analysis, but clarified that this was not in front of the Council tonight. He stated that whether it not it satisfied the variance analysis was not in front of the Council, and they should consider whether it satisfied the CUP requirements. He noted that one of the distinctions between a CUP and encroachment was that an encroachment was talking about something off of someone's property, such as within the right-of-way or encroaching on someone's property, and in this instance, this is an application for a fence that was entirely on the property owner's property.

Councilmember Sanschagrín stated that he felt the analysis presented by the adjacent property owner was applicable because it addressed the health, safety, and well-being of the residents related to light and character.

Maddy moved, Labadie seconded, Adopting RESOLUTION NO. 25-048, "A Resolution Approving a Conditional Use Permit to Allow an 8.5 Foot Tall fence on Property Located at 5905 Grant Street."

Motion failed 2-2 (Sanschagrín and Gorham opposed).

Mayor Labadie stated that she did not understand the issue with not voting in favor of this application and referenced the statements made by City Attorney Shepherd, that it was completely on their property, that the applicant had come to the City and attempted to follow the proper steps with approval by the City. She noted that this may be the only time someone has brought information forward from a structural engineer for a fence.

Councilmember Sanschagrín stated that he had installed a fence on his property and chose to proactively approach his neighbors, and ended up moving the fence back to create goodwill with them.

Councilmember Maddy noted that neighbors cannot dictate the enforcement of City Code.

Councilmember Gorham stated that this fence looks like six feet tall from one side and eight and a half feet tall from the other, and the person on the other side does not want that, and explained that he was not looking at anything more complicated than that.

Mayor Labadie stated that it was set up this way because of the topography of the lot and asked Planning Director Griffiths if the footings were on the other side of the retaining wall that the height would not be an issue, and Planning Director Griffiths stated that was correct. She stated that

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this was what the Code was for and gives the applicant a way to approach an unusual lot with an unusual circumstance, and reminded the Council that the issue was not whether this should be a variance rather than a CUP.

Councilmember Gorham stated he understood the points made by Mayor Labadie and explained that he could be swayed to vote differently, but noted that he did not want to set a precedent.

Councilmember Sanschagrín stated that he would prefer that the fence be built on the other side of the retaining wall so those footing posts would not be seen.

Mr. Pearce stated that he could not move the fence to the other side of the retaining wall because of the topography and curves, and explained that it was in this location due to the uniqueness of the topography in the area. He noted that he thought that was understood when he had applied. He stated that he did not feel there would be any difference in the shading or lighting issues that were raised by the neighbors in the current location versus the other side of the retaining wall.

Gorham moved, Maddy seconded, to Reconsider a Motion on Adopting RESOLUTION NO. 25-048, “A Resolution Approving a Conditional Use Permit to Allow an 8.5 Foot Tall fence on Property Located at 5905 Grant Street.”

Motion passed 3-1 (Sanschagrín opposed).

Gorham moved, Maddy seconded, Adopting RESOLUTION NO. 25-048, “A Resolution Approving a Conditional Use Permit to Allow an 8.5 Foot Tall fence on Property Located at 5905 Grant Street.”

Motion passed 3-1 (Sanschagrín opposed).

7. ENGINEERING/PUBLIC WORKS

8. GENERAL/NEW BUSINESS

9. STAFF AND COUNCIL REPORTS AND DISCUSSION

A. Staff

Park and Recreation Manager Czech stated that the City had hosted a volunteer tree planting event at Freeman Park and thanked those who came out, including Tonka United Soccer Association, Park Commissioners Hirner and Wenner, and the Public Works Department.

Public Works Director Morreim stated that crews would be watering many trees, and utility crews would be finishing up watermain flushing soon and would move on to exercising valves.

City Engineer Budde stated that they were working on the Mill Street communication and would be holding an Open House sometime later this month.

Finance Director Schmuck explained that she would have the Utility Billing Policy prepared for the next City Council meeting.

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City Clerk/HR Director Thone noted that the City had reviewed seven candidates for the Planner position and will bring back three individuals for finalist interviews later in the week. She stated that they had also contacted past Planning Commission candidates due to the resignation of Planning Commissioner Eggenberger. She stated that there were fifty-three trees picked up and planted by residents, and six will be going to the City parks. She noted that the City had received one hundred sixty-five survey responses and noted that additional responses would be due by May 23, 2025. She stated that the City ended up receiving five letters of intent for the recycling RFP. She reminded the Council that the Spring Clean-up and Shredding event would be on May 17, 2025.

Planning Director Griffiths expressed his appreciation to Planning Commissioner Eggenberger for his years of service to the City, and he would be missed, but was thankful that he was willing to serve until a replacement could be found for his seat. He stated that the Planning Department has been very busy with construction projects and was excited about bringing a Planner on board shortly.

City Administrator Nevinski stated that final interviews for the SLMPD Chief position would be held later this week. He noted that he was working with MnDOT on the Transit Management Organizational Study and hoped to have a contract for Council consideration in time for the next meeting.

B. Mayor and City Council

Councilmember Gorham stated that he wanted to echo the comments made by Planning Director Griffiths regarding Planning Commissioner Eggenberger, and had served alongside him for many years.

Councilmember Sanschagrín stated that there was an LMCC meeting on May 8, 2025, and gave a brief overview of topics of discussion, including downsizing plans.

Councilmember Maddy stated that he had also worked alongside Planning Commissioner Eggenberger for years and was also sad to see him go, but wished him the best.

Mayor Labadie stated that she wished Planning Commissioner Eggenberger luck and noted that he had contributed a lot to the City and was a wonderful person that she was glad to know.

10. ADJOURN

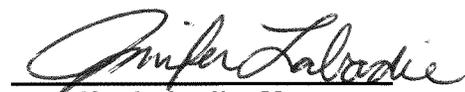
Maddy moved, Sanschagrín seconded, Adjourning the City Council Regular Meeting of May 12, 2025, at 8:20 P.M.

Motion passed.

ATTEST:



Sandie Thone, City Clerk


Jennifer Labadie, Mayor