

**Lakeland Shores City Council Meeting
July 10, 2003
Lakeland City Hall**

Present:

Mayor Bob Harvey	City Attorney Timothy Kelley
Council Member Judy Savage	City Treasurer Tom Niedzwiecki
Council Member Sandy Wilke	City Clerk Joan Heldt
Council Member Dave Jarvis	
Council Member Joella Givens	

Also Present:

Gordy Jarvis, Carol Jarvis, Shannon Jarvis, Tom Savage, Dave Simons, Steve Schmig, Theresa Shannon, Shirley Munson, Jon Whitcomb, Molly Shodeen

Mayor Harvey opened the Public Hearing at 6:30 p.m.

Public Hearing on Application for Amended Conditional Use Permit – Steve Schmig

Schmig would like to start serving breakfast at 6:00 a.m. He would like a Volleyball league on Tuesday night from 5:00 p.m. or 6:00 p.m. and the other nights including weekends open volleyball for kids. Schmig said this has been working out good. There is also a basketball hoop. Outside activities include bean bag throw and other things we want to do around the bar. Schmig would like to word the CUP so he wouldn't have to come to the Council every time he wants to change something.

Breakfast hours

At the last Council meeting Schmig mentioned he would not be open for breakfast on the weekends. Now Schmig would like to have the bar open all week including Saturday and Sunday. Schmig feels he does not have a noise problem and he would get lots of church goers not bikers for breakfast. Schmig's customers want him to be open. Mayor Harvey noted that Schmig opened without Council approval.

There was discussion of serving alcohol; Schmig said he would not serve alcohol at 8:00 a.m. Kelley said the City has the right to limit the serving of alcohol.

Savage asked if the CUP needs to state he is serving breakfast; Kelley mentioned the City can specifically identify what should be in the CUP. Schmig said he thought he would stay with what the State law says. Schmig would like to stay open for breakfast; it has been slow at 6:00 a.m. He's trying to hit the biggest day to be open for breakfast. Kelley recommends the Council specifically state the time and days in the CUP. Wilke feels 8:00 a.m. is early enough. Schmig said 8:00 a.m. is too late and would like to be open at 6:00 a.m. and he controls the time. Wilke stated the Council controls the time.

There was a discussion regarding noise concerns for the neighbors. Mayor Harvey mentioned Schmig is zoned commercial and is in a residential area and needs to have considerations for his

neighbors. Wilke is not objecting to serving breakfast but is concerned of the noise. Kelley will review the noise ordinance.

Givens referred to the letter which states to open for breakfast at 5:00 a.m. Givens asked for clarification. At the last meeting Schmig had already purchased the food. The Council didn't want to create a hardship and Schmig also said he wouldn't be open on Saturday and she drove by and it was open. Givens stated she is not comfortable giving an open ended CUP. Givens stated when we set the hours that's what the Council means and he is not to serve at other times.

Givens suggested opening Monday through Friday at 6:00 a.m. and Saturday and Sunday open at 7:00 a.m. Wilke asked if Schmig had a problem with that. Schmig stated he does have a problem with that but he needs three votes from the Council. Schmig said 7:00 a.m. on Saturday and Sundays is too late. He has advertised about being courteous to neighbors. Wilke stated Saturday with the Harley noise is disrespectful to the neighbors. Wilke stated there are some of his customers that absolutely do not care. Mayor Harvey asked if we have an agreement of Monday through Friday open at 6:00 a.m.; Saturday and Sunday open at 7:00 a.m. Closing time is 1:00 a.m. except Sunday at 12:00 a.m.

Outdoor sports and activities

Schmig said the hours would be after work until 9:00 or 10:00 p.m. Savage asked about lights; Schmig said no lights would be added just the existing parking lot lights. He would keep the outdoor sports open basically until the sun goes down. Givens asked where the court was; Schmig said on his parking lot side directly by the building. Savage asked about planting shrubs; Schmig stated he has a 12 foot fence to keep the noise down. Wilke inquired about carrying additional insurance; Schmig stated yes everything in the bar has additional insurance. Mayor Harvey said the fence is 30 feet away from where the sand starts. There was discussion on hitting volleyballs onto his neighbor's property. Schmig said that a person would need to hit the ball pretty hard. Mayor Harvey said he watches 8 hours of volley balls a week and believes it could happen. Schmig said the only neighbor is Chad and he's talked to him. Mayor Harvey asked if Schmig was going to tell the people not to retrieve the ball. Schmig said it's a long way around the fence and you can't go over the fence. Schmig said he has three volleyballs if one goes over the fence they will pick it up the next day and use a new ball. Givens asked about the other sports that were listed in the letter. She asked if he had plans of installing cement horseshoe pits; Schmig stated no. Broomball will not require another court; Schmig said broomball will be played on the same court as the volleyball. Tom Savage is concerned about compacting the septic system and asked how Schmig will keep people off the drain field; Schmig said nothing is there now and it is empty ground and said you cannot get to the septic system because of the semi trailer. Mayor Harvey asked about lights for the broomball; Schmig stated broomball will only be played on the weekends. Schmig mentioned the basketball court and said the kids will bring their own basketballs. Givens asked about signage. Schmig mentioned the light in the back yard; no additional lights will be added. Kelley mentioned the Council should state specific times for sports. Schmig would be happy with 10:00 p.m. and in the winter 7:00 p.m. Mayor Harvey asked if the Council would allow outdoor sports. Savage stated it just comes down to the noise. Wilke asked if there was an age limit. Schmig said no age limit. Givens asked if Schmig had issues with the kids outside and parents inside. Schmig said he has more issues with parents not watching their kids inside. There was discussion regarding the

hours of the tennis courts and who owns them. The tennis courts are open until dusk and there are no lights. Jarvis asked if it was a misdemeanor if the CUP was in violation. Kelley said Schmig is responsible for the CUP. Schmig said there will be a sign located at the volleyball courts designating the hours. Kelley stated it is Schmig's responsibility to stop play. Mayor Harvey asked if we were to do this on a trial basis would Schmig need to pay more money to come back to the Council. Kelley stated as long as there isn't a change in the CUP. Givens would like this contingent to review. Schmig asked for a year. Schmig wants to have a volleyball league. Mayor Harvey suggested February or March. Kelley stated broomball is a winter sport. Mayor Harvey said a review in March 2004. Wilke suggested a trial basis until 9:00 p.m. Schmig stated he is basically going to have six teams play five times. Mayor Harvey said to start at 1:00 p.m. and end at sunset.

Jarvis mentioned things are being done and compromised our position such as building addition, volleyball, breakfast, etc. The Council would like Schmig to go through the proper channels in the future. To come to the Council after things have been done is abusive. I think this needs to be clear and Schmig needs to take this seriously. I think everything you've asked is reasonable, only concern is the noise. I wouldn't want the lama lot to turn into a broomball court. This needs to be specifically identified where the outdoor activities are located. Schmig mentioned the swing set. He didn't think the volleyball was a big point that needed to go to the Council. Mayor Harvey said it was how Schmig went about it. Schmig said people laugh at him when he says he needs to get a permit for the volleyball. Savage commented the city has one business and we are the laughing stocks; we sit here with a stack of ordinance that we are to follow. Schmig said he has tape recordings of Judy in City of Afton where she is laughing about him. There was discussion of Schmig's past lack of dealings with the Council, certificate of occupancy, signage, etc. Givens said we are not shutting down anything in your CUP. Jarvis would like a commitment from Schmig that he will come to the council prior to doing anything. Mayor Harvey said if you don't know just ask; call the attorney or any Council Member. We don't want to deal with anything after the fact anymore. Wilke honesty feels we have bent over backwards for Schmig. Jarvis stated it's the manner of the requests. There was discussion of the trampoline, slide and insurance. Schmig said everything is insured. Kelley stated the city would never be responsible for the trampoline; if a customer gets hurt it is the owner's responsibility not the City. The City is just permitting the use. The City needs to specify the locations of the activities. Givens asked if things will take place on one lot; Schmig said both lots. Wilke said the volleyball court is where the parking lot used to be, Schmig said it is next to the parking lot. Wilke asked if there will be adequate parking when the leagues start, Schmig said yes there will be plenty of parking. Mayor Harvey asked if there were other comments. Gordy Jarvis if there was going to be extra parking; Steve said no additional parking.

Savage motioned to close the public hearing on the Schmig's Amended Conditional Use Permit; Givens seconded; all ayes; motion carried.

Public Hearing on an Application for Variance – Jon & Ann Whitcomb

Whitcomb has lived on the property for over two years and is hoping to expand the home. The home is design as a one bedroom. The structure is built out of concrete block and covered with plaster. Whitcomb provided a drawing, the existing structure is in yellow and the addition is in orange. The existing garage would be made into living space. We would like to build a new

garage. A portion of the home would be two stories. The best position of the home is the present location. Whitcomb discussed the 50 foot setback and it would not meet the DNR because of flood plain. The existing septic is a failed system and a new septic system would be installed. Whitcomb discussed photos taken from the river side showing where the home is located and the proposed site. The proposal includes a drawing of retaining wall and rendering of St. Croix lime stone stack retaining wall. There are several locations on the site where we would locate the retaining walls. The color of the house would be a stone material, natural stone or stucco beige/brown. Along the south property line the bank is held up by old tires. If the tires are not removed it creates an unhealthy situation. The existing basement will not change. New garage will be built in front of the old garage. New stairwell and front stoop. South end of the home will remain one level.

Givens asked where the water would flow in the retaining walls. Whitcomb said by leveling the ground the rainwater will absorb in the ground as it pools it will slowly go down. There was a discussion regarding the hardship for the variance request and the fact the lot is unbuildable. This is a unique circumstance as it cannot meet the 50 foot setback requirement. Molly Shodeen asked how the City feels about the retaining walls. Mayor Harvey mentioned the slope and it does really cut off and Whitcomb brings up really good points about the erosion. Shodeen feels it could be stabilized with the proper vegetation. Jarvis mentioned the tires. Shodeen would like to see the river side of the house with the proper vegetation. Mayor Harvey said if you did the retaining walls and planted the vegetation would that accomplish the same goal. If he was to do retaining walls to stabilize the area and plant vegetation would that be acceptable. Tom Savage said Whitcomb wants to stop the erosion. Theresa Shannon asked how much erosion since 1972; Whitcomb said in 30 years about 4 feet. Dave Simons discussed retaining walls vs. no retaining walls. He feels there are some ways to get away without retaining walls. He has seen slopes with synthetic material with vegetation and hopefully you would get a good stable slope. He sees some spots where water will channel and suggests when you finalize the plan add additional erosion control such as sod and seed. Whitcomb said the landscape plan would specify that. Simons questioned the height of the 9 foot wall and feels an engineer should look at the plan from an engineering aspect.

The following variance requests were listed pertaining to Ordinance 42: 150 feet requirement for lot width at building setback line; 50 feet structure setback from bluff line. Side yard Setback: the current ordinance requires a setback of 15 feet. Under the applicant's proposal, the proposed addition will be 15 feet from the side yard. Kelley tried to incorporate the concerns from the DNR and City Engineer. Mayor Harvey asked for further discussion; hearing none;

Givens motioned to close the public hearing on the Whitcomb Application for a Variance; Savage seconded.

July City Council Meeting Call to Order

Mayor Harvey opened the City Council meeting at 8:35 p.m.

Review and Approve June Minutes

Wilke motioned to approve the June minutes as corrected; Jarvis seconded the motion; all ayes; motion carried.

Additions to Agenda

Shirley Munson – questioned the recycling information in the Lakeland newsletter. All of the dates were incorrect. Munson phoned Waste Management. Givens asked if we could ask the recycler for the dates. Savage mentioned Lakeland oversees the recycling. Mayor Harvey will contact the Mayor of Lakeland.

Peter and Ellie Lind letter – it was suggested the five Mayors present the Lower St. Croix Valley Fire Department with a plaque recognizing their dedication and service to our communities. Jarvis will research cost of a plaque.

Jon Whitcomb –

Proposed resolutions with changes in F2 and H. Givens motioned to adopt resolution 2003-07-01 and grant the variance including the changes as specified; Wilke seconded; no discussion; all in favor; motion carried.

Schmig's Sports Bar –

Givens stated the business hours: Monday through Friday 6:00 a.m. until 1:00 a.m.; Saturday 7:00 a.m. until 1:00 a.m. and Sunday 7:00 a.m. until 12:00 a.m. Givens motioned to amend the CUP to incorporate serving breakfast Monday through Friday open at 6:00 a.m.; Saturday and Sunday open for breakfast at 7:00 a.m. The existing closing times listed in the CUP still stand. Hours of liquor service is governed by the City ordinance; Wilke seconded; no discussion; all in favor; motion carried.

Wilke motioned to grant Schmig's request for outdoors sports as listed in his letter to the council dated June 26, 2003. Outdoor sports include volleyball, croquet, bocce ball, yard darts, horseshoes, broomball and basketball. The outdoor sports are limited to the hours starting at 12:00 p.m. until no later than official sunset Monday through Sunday; Savage seconded. There was discussion of a temporary use permit until March 2004. Wilke amended the motion to state starting time at noon finish time no later than official sunset Monday through Sunday on a trial basis to be reviewed at the March 2004 meeting. Givens seconded; Kelley suggested specifying the three parcels of land. Bache ball is in the volleyball court. Outdoor activities will take place on parcels R.35.029.20.43.0005 and R.35.029.20.43.0043; Givens seconded the amendment; motion carried.

Old Business

CUP for cable business located on St. Croix Trail – Kelley will review the information and report back next month.

New Business

Dog License – Givens discussed the dog ordinance. Kelley will revise the ordinance to state dog license fee will cover two years starting January 1 of even number years.

Washington County Sheriff Report – Officer Becky Engel provided the council with the June report. A total of 12 calls were received. No citations or tickets were issued. Officer Engel mentioned a few of the complaints received; someone driving on the bike path at 2:30 p.m.; someone passing on the right; alarm at business and one barking dog, etc.

Treasurer Report –

- Niedzwiecki mentioned the draft budget will be ready for the next meeting.
- Reviewed the financial report from June.

Attorney Report –

- Kelley encouraged the Council Members to review the ordinance book.
- Reported the pull tab ordinance will be ready next month for the Council's review.

Road Commissioner Report –

- Mayor Harvey commented on the city roads and stated they look great!
- Savage discussed the snow plow contract. St. Mary's Point has directed their City Attorney to break the contract with Washington County.
- Savage and Dave Simons met to discuss location sites for sexually orientated business. Two sites were identified. Simons provided two preliminary drawings of lots meeting the sexually orientated use ordinance at 150 feet and 100 feet.

Fire Representative Report –

- Official publication is the Stillwater Gazette.
- Vehicles – Pumper Truck #4155 replacement scheduled for 2006. Financing for a new truck will be explored. New duty car expected to last 7 years.
- Total of 34 runs last month.
- Ambulance fund is not doing well; \$10,000 in ambulance write-offs.
- The building is one third complete.
- 2004 budget was approved at 4.77%.
- Dave Jarvis was approved to sign vouchers.
- Currently looking for someone to attend audit meetings.
- Lake St Croix Beach has homes to burn and the Fire Department has invited City Council members to watch.

Clerk Report –

- School District election. The County asked if the City will pay the judges then send an invoice to the County for reimbursement; Council agreed. There will be a meeting on August 12 for the City Clerks and head election judges; Clerk and Council Member Savage will attend.
- Out of town week of July 21.

Council Reports

Givens –

- Did not receive a dog report this month.
- Received a copy of the GIS Annual Report; contact Givens if interested in the report.
- Reported on the Watershed meeting.

Jarvis – Jarvis indicated he has changed the scope of his home construction. Kelley mentioned a public hearing should be scheduled.

Mayor Harvey –

- Out of town on August 7.
- Reported on the Mayor's meeting. The county will have a public meeting in August regarding County Road 18.

Review and Approve Bills and Invoices

Wilke motioned to approve the bills and invoices; Givens seconded; motion carried.

Adjourn

Wilke motioned to adjourn the meeting; Givens seconded the motion; all ayes; motion carried. Mayor Harvey adjourned the meeting at 10:00 p.m.

Respectfully submitted,

Joan Heldt
City Clerk

Bob Harvey
Mayor