

**North Oaks City Council  
Meeting Minutes  
North Oaks City Council Chambers  
July 8, 2021**

**1. CALL TO ORDER**

Mayor Ries called the meeting to order on July 8, 2021 at 7:00 p.m. All members were present in the City Council Chambers.

**2. ROLL CALL**

Present: Mayor Kara Ries. Councilmembers Rich Dujmovic, Jim Hara, Sara Shah, Tom Watson  
Staff Present: Administrator Kevin Kress, Attorney Jim Thomson, Engineer Tim Korby, City Planner Bob Kirmis.

Others Present: Engineer John Morast, North Oaks Company President Mark Houge, North Oaks Company Attorney Tom Bray, Tom Dillon from JMS Custom Homes  
A quorum was declared present.

**3. PLEDGE OF ALLEGIANCE**

Mayor Ries led the Council in the Pledge of Allegiance.

**4. CITIZEN COMMENTS**

Councilor Watson asked to recognize Bob Scholz who was on the City Council from 1999-2002 and whose funeral is the following day. He was a great guy and will be missed.

**5. APPROVAL OF AGENDA**

**MOTION by Watson, seconded by Shah, to approve the Agenda. Motion carried unanimously by roll call vote.**

**6. CONSENT AGENDA**

**6a. Approval of June 2021 City Financials**

**Approval of EFTs00044E-000452E and Check #: 014025 - 014055**

**6b. Approval of Licenses:**

**Mechanical: General Heating and Cooling LLC; Marsh Heating & Air Conditioning;  
Plumbing Restoration & Services LLC; The Fireplace Guys: ; TLT Enterprises, Inc.;**

**6c. Approval of Special City Council Meeting Minutes of June 10, 2021**

**6d. Approval of City Council Meeting Minutes of June 11th, 2021 and June 18th, 2021**

**6e. Approval of Waddle Recycling contract**

**6f. Approval of Gambling Permit for Common Bond Communities - Birdies for Hope Golf Event**

**MOTION by Hara, seconded by Watson, to approve the Consent Agenda. Motion carried unanimously by roll call vote.**

**7. PETITIONS, REQUESTS & COMMUNICATIONS**

**a. Deputy Mike Burrell Report**

Deputy Burrell was not present and Administrator Kress will circulate the report via email to the Councilmembers.

**8. UNFINISHED BUSINESS**

**8a. Proposed change to building permit refund form**

**MOTION by Dujmovic, seconded by Shah, to approve the agenda proposed change to the building permit refund form. Motion carried unanimously by roll call vote.**

**9. NEW BUSINESS**

**9a. Consider approval of Conditional Use Permit for 16 Cherrywood Circle**

Staff presented a summary packet of information; City Staff and Planning Commission are recommending approval.

**[00:09:14] MOTION by Hara, seconded by Shah, to approve the Resolution #1426 Conditional Use Permit for 16 Cherrywood Circle. Motion carried unanimously by roll call vote.**

**9b. Consider approval of application for final plan/plat/subdivision for the Island Field Development Site (Site H of the 1999 East Oaks PDA legally described as Tract D, REGISTERED LAND SURVEY NO. 561, RAMSEY COUNTY, MINNESOTA), and associated JPA for water and sewer services with White Bear Township**

Staff presented a summary packet of information and an overview of the project. City Planner Kirmis stated at a Special City Council meeting in December 2020 the Council considered and approved the Preliminary Plan of the Island Field plan or plat subject to various conditions. This plan accounts for construction of a two-phase 74 dwelling unit condominium building, along with community room, exercise room, outdoor gathering spaces, patio decks, walking paths, and a community garden. The North Oaks Company (NOC) has requested final plan approval of the Island Field project and wishes to subdivide the property and create 2 primary parcels of land which correspond to a phasing plan. Generally, the site plan, related building, street, and trail configurations as illustrated on the Final Plan are consistent with those on the approved Preliminary Plan. Mr. Kirmis noted that the site plan is not identical and includes some refinements. He walked the City Council through some comments and conditions.

The Council discussed lighting impacts on neighboring residents, photometric lighting plans, and City ordinance regarding lighting. Mark Houge, NOC President is happy to provide a photometric lighting plan to the City.

Engineer Morast updated the Council and noted most engineering comments are looking for more detail and clarity.

Councilor Hara noted a letter from NOHOA and the ownership and maintenance responsibility for the stormwater, asking whether those things should be done prior to the agreement or after approval of the development.

Engineer Korby said the sooner the better. One of his concerns is having some sort of retainer, contingency, or pot of money for these utilities in 5-10 years when NOC is done. He asked how much money will they need to maintain sewer, water, stormwater facilities, and who will pay for these things 15-20 years from now? Attorney Thomson will hopefully work that into the agreement. He noted they also have a meeting with the DNR the following Thursday to discuss the May 4, 2021 letter and the rationale of changing the Ordinary High Water Level.

Attorney Thomson said there is a specific condition in the Preliminary Plat approval resolution that says all plans shall specifically be revised to show the location of the Shoreland Management Area on the development site which shall be located based on the Ordinary High Water Level (OHWL) of Black Lake as determined by the MN DNR; and all buildings and structures shall be shown on the plans and located in a manner that is compliant with all Shoreland Management Area Requirements. He clarified if something changes with respect to the DNR's determination of the OHWL of Black Lake they will need to comply with that.

Councilor Watson would like someone to take a look at a matter addressed in a 1992 letter from Molly Shodeen (who was the DNR hydrologist at the time) with a complaint that the trail in the West Black Lake Development was within the setback of the OHWL.

Councilor Shah noted the DNR came back about a month ago with a lengthy response about the high water boundary and stated that they were wrong and made a mistake. The DNR also highlighted they were missing maps that they have now found and had more relevant information. The new response makes this irrelevant which is why she thinks it is not applicable in the checklist.

The Council discussed concerns with the DNR's letter, the science, studies of the hydrology, and new engineering comments.

Mr. Houge noted NOC and Engineer Korby have met weekly and had some very constructive meetings. Many of the engineering comments do not materially change the design but update text on the drawings which NOC is happy to do. Regarding the adjustment of the easement of the road coming in, as well as adjustments to the height of pipes to make sure there are no conflicts with other types of utilities, as long as it does not change the design but cleans up the drawings, NOC is in favor of making those changes.

NOC Attorney Tom Bray wants to differentiate what NOC is and is not objecting to. He noted the Applicant is objecting to the references in the Resolution purporting to make compliance of those comments a condition of approval. He asked that a letter he wrote to the City Attorney be included in the Minutes to save time and noted the City had 180 days from the time the

application was filed until the Council acted on the preliminary approval, to do all of the review, and the City had all the authority in the world as part of the Preliminary Plan approval to attach whatever conditions it felt was appropriate. Mr. Bray stated that authority ended when Preliminary Plan approval was granted. The Council's action tonight is governed by State Law Minnesota Statute Section 462.358 and the Council's decision is whether the Applicant has or has not complied with the conditions of the Preliminary approval or will comply with those conditions. There is no authority in State law or the City's ordinance for Council to impose new conditions at this time and the language in the ordinance purports to do exactly that. The result is that the City will not be complying with its obligation under Section 462.358 to act on this an either approve or deny this application; remedies to the Company will include the right to commence an action in Ramsey County District Court seeking a mandamus order, ordering the City to fulfill its obligation and awarding damages to the Company. He does not know whether that will be necessary because he does not know whether the Company will agree to all of the conditions imposed by the City Engineer. If they do, then it is a non-issue but if they do not the City has walked itself into a lawsuit with significant damage claims and Mr. Bray wants to be sure the Council is aware of that.

Attorney Thomson responded that he received the email from Mr. Bray who asked for three changes, and they made two of those changes. He is confident that the condition in the Resolution is enforceable, engineering plans change, if the City stubs their toe on one they can address it with Mr. Bray to see if there is something that needs to be worked out. Mr. Thomson is comfortable with the way conditions 1 and 2 are worded and has told Mr. Bray in an email that the City understands the Company is reserving their rights to challenge it if they have wont to.

Mayor Ries wants to put on record that in Minnesota it is often hard to do some of the engineering work during the winter months when things are frozen, such as soil samples, therefore some of the deadlines are virtually impossible or very difficult to meet. Engineers must have that flexibility so they can do a full and thorough vetting of the area.

Councilor Watson spoke about building height and he was on the Council that did not make Site H into a 47 foot high building. The reason it was 35 feet is because of the initial Comprehensive Plan, and the initial paragraphs of the PDA an issue they faced was comparability of neighboring properties. He noted it was not a mistake or oversight, they were not a bunch of misfits but there two things have taken place that have been meaningful and substantial in 20 years: first the 3 Amendments to allow the Harper's to get the title to the property, and second Presbyterian Homes coming into the community. He spoke about concerns at the time, and wants people to understand that the Council at the time made decisions and there was a reason that it was not 47 feet there. He said logic for adopting Amendment 8 is crazy to him because there was nothing substantial to support it.

Councilor Dujmovic thanked Councilor Watson and Mayor Ries for putting up with a whole lot over the course of the last 30 months, as they were called a lot of names, and their character, integrity, and honor was challenged. He stated this is not about the NOC as he has always had good conversations with them, they have been very helpful – rather, this is about the previous City Council and said there is all sorts of behavior by that City Council that he did not appreciate. He said it is not about counts or how much one can develop, it is about honor and

integrity when someone brings forward facts. He shared some documents and spoke about unit counts not aligning.

Councilor Shah has heard the arguments for years and noted they are the other Councilmembers' perspectives and interpretation of the PDA. There is no legal substance to deny Island Field, which the City Attorney has confirmed verbally and in written form. (Mayor Ries pointed out the written memo is private). Councilor Shah said the subdivision is compliant, they have met all the conditions, and there is no ability to deny.

**[1:18:15] MOTION by Councilor Shah to approve Resolution #1427, Island Field development without the additional conditions. Motion failed for lack of a second.**

Mayor Ries asked Attorney Thomson to address that he sent out a very clearly labeled Attorney-Client privilege memo and there is now a Councilmember who is reading portions of the memo into record.

Attorney Thomson said it is correct, he sent out a memo Attorney-Client privilege and the Council as the body is the only one that can waive that privilege and disclose it which has not happened.

Councilor Shah said it would be disturbing to her if they did not disclose this to the public as they deserve a right to know about the memo from the City Attorney. She clarified that she did not read it out loud but is referencing it.

The Council continued discussion including proof-of-parking, density, and decisions the previous City Council made regarding counts. Conversation continued regarding the 7<sup>th</sup> Amendment, 8<sup>th</sup> Amendment, and unit counts.

Attorney Thomson clarified that the NOC is bound by the agreements up to the 8<sup>th</sup> Amendment; with all of the amendments, the agreement as a whole now says NOC gets 645 residential units and 21 commercial units, so that is what they are entitled to. If this moves forward, NOC has now used up all of their commercial acres as they transferred the remaining ones and the future plats will have to comply with the PDA and its amendments. If NOC exceeds the number of dwelling units in the PDA in any of the sites, the City will have to address that.

Councilmembers then moved on to talking about the conversion of the units, zoning requirement, density, and the whether the amount of land in the Island Field is enough.

Councilor Hara sees both sides, including Councilor Shah's and Councilor Dujmovic's, and suggested sitting down for a discussion and negotiation between NOC and the City. He remembers a meeting where Councilor Dujmovic was asked to leave and asked where was the transparency as Councilmembers, the City Attorney, and Mr. Houge continued with a closed-door meeting.

Mr. Houge clarified for the record that there were no closed-door meetings after the real meeting; that is absolutely not true.

The Council continued discussion regarding the 5.73 acres, the need to have this type of unit built within the community for those who may be getting older and not want to take care of a large yard, and calculations on density and acreage.

Councilor Watson is on the same page as Councilor Hara, why can't they sit down and figure out what they need to do to get this thing done?

Mayor Ries is ashamed of the Council she was on when the public was being treated so poorly, it was embarrassing for the city, they Council are representatives of their City which is part of their duty, and Councilor Dujmovic had an excellent point in bringing it up: they all have a Code of Conduct to live up to and it was shameful behavior that failed that Code and failed how they should be acting as Public Servants to the community and she wants to say she is sorry. She explained to Councilor Shah that she was on the Council that year and is pretty sure that there is some post-traumatic stress. It was not okay what happened, and anyone that respects the Code of Conduct would not be okay with that behavior. Yes, they must move on and that is why each of them are here, that is why each of them ran for City Council, and they are here to do the City's business. She said to Councilor Watson's point, there is a 7<sup>th</sup> Amendment which talks about setbacks between E1, E2, and E3, and adjoining property with zero feet between them. She stated on the record that she, too, supports the condos on Island Field, she thinks it would be a great addition to the community. However, this is a bit beyond the scope of the agreement, trying to protect North Oaks, limit density, and protect the natural resources; she is very excited to have condos but it has to be the right condos and must respect the zoning, the Comprehensive Plan, and the 1999 PDA, which the 645 units has never been amended from. She wonders if Mr. Houge would entertain an extension of tonight's deadline of 60 days to work this out.

Mr. Houge can appreciate the Council's concerns; he is not trying to dismiss all of the work they have invested in trying to come up with the right solution for the community. However, he thinks they must also recognize what has been going on for the last 2 years and how this has been fully vetted. NOC does not have more time and is unable to extend. The answer is no.

The Council continued discussion on changes that have happened with the plans, lack of historical negotiation with the former City Council, a NOHOA letter dated June 28/July 6, and the fact that it would be nice to have a storm water management agreement before final plan approval.

Councilor Shah shared some learnings about the League of Minnesota Cities, filing a claim, and litigation. She is deeply concerned about breach of contract and noted financially the City would be on the hook for the insurance deductible of \$15,000, land and use issue co-pays, renewals and rates, and also legal fees and damages.

Mayor Ries said when one contacts their insurance carrier regarding litigation, they will tend to put the fear of God in them. Lucky for the City, they have hired Attorney Thomson who happens to be the League's Trust Attorney and counsels the League when there is a legal issue. It is sort of like getting the actual legal advice from the League without having the insurance provider scare them.

Councilor Watson spoke about going through litigation during his previous time on the City Council, noting the economics are just as Councilor Shah mentioned; the lawsuit ended in a settlement after trying to negotiate several times and ultimately the property owner had to move a building.

The Council shared their thoughts on what the prudent thing to do is as the deadline is this evening.

- Councilor Dujmovic does not feel he is in a position to disapprove because the previous City Council set things in motion that are difficult for the current City Council to walk out of; he also feels that he is not in a position to approve because he disagrees with the way that it was handled.
- Councilor Watson agrees there was no negotiation between the Company and the City. He spoke about maintenance plans, taxpayer money, and the fact the rest of North Oaks gets stuck paying for maintenance on these projects.
- Councilor Hara is astounded that an offer to negotiate and work it out in good faith has been denied. He agrees, as does probably the whole community, that condominiums are a great idea to be able to stay in the community, and he thinks the reluctance to negotiate from the NOC is not the NOC he has witnessed over the last 28 years.

Mayor Ries asked Mr. Houge for a two-week extension.

Mr. Houge replied they already gave a two-day extension for tonight's meeting and he cannot agree to any more extensions. It has been represented that the Company has been totally inflexible and has not conceded anything, in fact where the trail is in Nord was not something they were obligated to do at all but was the result of negotiations and compromise, and he noted ideas for Red Forest Way that the City did not want the Company to do, so they did not do them. He would appreciate the Company not being represented as being totally inflexible and winning at every turn because that is not a fair representation.

Administrator Kress noted another option for the City to negotiate directly with the third-party owner of the property; perhaps instead of 74 units it ends up being less as they will not really know the market until it hits the market.

Mayor Ries called for a five minute break. After the break, Mayor Ries asked if there is an option to approve Phase A and deny Phase B.

Attorney Thomson does not see that right now as it is a construction issue; before the City Council tonight is the plat, the RLS, and they cannot split the plat.

Mayor Ries asked Mr. Dillon if he would be agreeable to a two-week extension or shorter to work out more agreeable plans to the plat.

Mr. Dillon does not think it is a question for him, but rather a question for Mr. Houge as the applicant.

Attorney Thomson explained the process of voting, noting that abstentions are allowed. He noted if the City Council does not vote to approve or deny, but rather does nothing, the Statute takes over and once the Applicant complies with all of the conditions in the preliminary plat it will be deemed approval. He clarified if the City Council approves the plat the applicant can record the mylars; if they deny it, the applicant cannot record the mylars without a court order and a lawsuit. If the Council does nothing, at some point the applicant will probably be allowed to record the plat as long as they comply with all of the conditions in the preliminary plat resolution.

**[02:58:52] MOTION by Councilor Watson to adjourn.**

Mayor Ries asked the benefit of that.

Councilor Watson replied because the clock runs out at 12:01 p.m. and then it is approved. He clarified he does not have to be stuck with a “yes” vote for a bunch of nonsense and he wants Mr. Dillon to build.

Mayor Ries wants to negotiate with Mr. Dillon and would like this to be a beneficial project without fighting when it comes time for building permits.

**[03:00:15] MOTION seconded by Councilor Hara. Motion to second withdrawn by Councilor Hara after Attorney Thomson suggested letting the motion to adjourn die so they can hear discussion from Councilor Shah.**

Councilor Shah wants to help clear the Councilmembers consciences and will make a motion to deny.

**[03:00:48] MOTION by Councilor Shah, seconded by Councilor Watson, to deny.**

Attorney Thomson explained in denying they need findings and reasons. A simple motion to deny is – in his opinion – not going to be defensible if challenged.

Mayor Ries suggested adding some additional points so it is substantive, citing that the zoning for this area has been breached because they can still comply with the density but cannot comply with the land, and the 8<sup>th</sup> Amendment is specific to the conversion, so that is a fundamental difference. She presented Attorney Thomson with case law that legally supports a Council when a preliminary plan is approved that is in violation of zoning that it is not justifiable that the company or developer can force a final plan approval just because preliminary plans have been approved when no zoning changes were made. She noted Councilor Watson has given more than substantial evidence to prove that the 5.73 remaining acres is non-existent and that all of the 21 acres has been used up, the 7<sup>th</sup> Amendment has language that indicates unit counts and setbacks which would also indicate that the 5.73 acres no longer exists. Mayor Ries noted there are many other reasons including DNR issues, water level, setback, and she is just giving some high-level reasons.



Councilor Hara asked if calmer heads can prevail and asked Mr. Houge if this is honestly what he wants to do. Mr. Hara is currently involved in an eminent domain lawsuit that has been 9 months in and 3 months until they see a court date; Councilor Hara cannot believe they can't come to an understanding that is not awful for NOC, benefits citizens of North Oaks, still get the Company what they want to do. This seems like a crazy path to take and he does not think they are so far apart that they cannot come to some common ground and move this thing forward without incurring time delays, expense, and everything else.

Mr. Houge is not looking forward to a lawsuit any more than anyone else would be and he is not sure what the motion on the table is, he has been frustrated trying to have conversations with each of the Councilmembers, he has reached out on numerous occasions to meet and talk about their concerns, offered tours of the site and has been basically told that they are not interested. At this point, he is at a loss as to what he is to do.

Councilor Hara said as a Council, right now they are willing to sit down with Mr. Houge and talk about this and try to move things forward so he is not delayed and they are not spending a bunch of time and resources on an extremely unproductive result.

**[03:11:30] Motion to deny withdrawn by Councilor Shah.**

**[03:14:00] Second to the motion to deny withdrawn by Councilor Watson.**

Attorney Thomson stated it might be helpful if he could take some time to speak with Attorney Bray.

Mayor Ries said Administrator Kress and Mr. Thomson can recess for 10-15 minutes and the Council will continue with the Agenda.

## **10. COUNCIL MEMBER REPORTS**

Councilor Hara went to the Planning Commission meeting, they did a good job, and are anxious to get back into chambers. HR Green gave Councilor Hara and Administrator Kress a wetland ordinance from the City of Minnetonka and the Minnehaha Watershed which are models the City is working on for the North Oaks wetland ordinance.

Councilor Dujmovic had a production meeting with NineNorth regarding the joint meeting between the City and NOHOA to welcome new members to the community. The vision is a brief overview of North Oaks' history, their commitment to being a private, nature-respecting community, the unique governing structure, and some links and information to clubs and organizations. He noted there were increased reports of fraud, speeding, and fishing this month; there was also a theft of a golf cart. Councilor Dujmovic noted NOHOA placed some traffic cameras at Rapp Farm this morning and they look forward to hearing the intent of using that information from those traffic cameras.

Councilor Shah has an upcoming Fire Relief Board meeting, and VLAWMO Tech meets the following morning at 7:30 a.m. She had an appointment with the North Oaks Heritage and

Architectural Preservation Project (NOHAPP) and there is a lot of opportunity there and hopes to have more updates in the future.

Councilor Watson has a Fire Board meeting, they have seen some early schematics for the new building and are looking at some of the initial capital budgets and noted Fire Trucks are expensive. At VLAWMO they have been working on budget going into 2022 and the 319 project is proceeding. Councilor Watson connected with Lonnie at Peterson Waddle and Councilor Watson and updated the Council on the contract.

Mayor Ries noted they had a very successful Green Lights Recycling Day, she will have a Mayor's meeting, and Cable Commission meeting coming up.

**[03:32:08] Attorney Thomson came back and the City Council continued discussion on item 9b.**

Mr. Houge noted the City Council has made reference to wanting to negotiate but he still has not heard what specifically they do not like about the proposal and is curious as to what they would like to negotiate.

The Council shared what they would like to see and negotiate. Councilor Hara would like to look at trails, recreation space, and some things that would enhance the developments for the community. Councilor Dujmovic would like to negotiate elements of the trail. Councilor Watson would like to get a 5-0 yes vote; he does not have a preconceived agenda but would like to get to a yes as quickly as possible. Councilor Shah has studied the development process and believes that the applicant has met the conditions and that they are compliant.

Councilor Watson said they can get to yes rather quickly when they get rid of all the extraneous matters that will not be changeable.

Mayor Ries noted they are all very interested in this project and for her it is the process as there are co-pending applications that were shoved at the Council and the Company has boxed themselves in right now as the 645 has not moved. She wants to talk about recreation in the negotiations, as well as a few additional asks.

Mr. Houge is prepared to spend the next half-hour trying to come to an understanding of what is agreeable; he is not willing to extend. The Company is prepared to create some open space with recreational facilities and have been in conversation with NOHOA, although they do not have any obligation to create more open space and recreational areas but they have a residual 2-3 acres that will be available for that purpose. He stated the NOC offered to do the improvement project to get Wilkinson Lake off the impaired nutrient list before VLAWMO pursued the 319 grant. Mr. Houge offered that they will expand the features of the trail that goes north/south, potentially adding birdwatching stations. He can stand here tonight and say the NOC will work to get the recreational facilities and trail improvements to everyone's satisfaction. However he cannot let these discussions continue to go on.

Councilor Hara asked if Mr. Houge is willing to look at some of the bonus densities on some of the development areas as to perhaps not push them to the max.

Mr. Houge asked if Councilor Hara is expanding the conversation beyond Island Field.

Councilor Hara thinks the Council in general is talking about not just Island Field but all of the developments the NOC has left to do or that are in process in the East Oaks arena.

Mr. Houge stated with regard to Island Field condo, it is a two-phase project because they want to know what the demand is and how many units the residents of North Oaks thinks is appropriate. He noted people may also want to combine units which would end up with less housing units, but NOC wants to preserve the right to do up to 74 if that is what the market is asking for. It is pretty likely that there will be fewer units in that building once they are all done as some smaller units may be combined. Mr. Houge said Gate Hill is a well-designed project and he does not see changing that. With Red Forest Way, they are still in the process of designing it and just received preliminary plan approval on Phase 1. He asked the Council to keep in mind they had the opportunity to do 200 units in Rapp Farms and they did 156 units. He noted all of his predecessors did less dense developments than they could have and now he is kind of stuck with it. He stated now they are getting to the end and he wants to reserve the right to complete the number of housing units as per contract. If the market says there is not a demand for 74 units, perhaps they combine a few smaller units and now there are 70 units. It is similar with Gate Hill.

The Council and Mr. Houge continued talking about how they can get to a 5-0 vote.

**[04:10:58] MOTION by Councilor Watson to adjourn.**

Councilor Shah thinks it is a cowardly move to adjourn, and she is very disappointed in all of them if they do this. They take a stance either way, they have to do this, they are elected, and this is their duty.

**Mayor Ries noted the Motion failed for lack of a second.**

Councilor Dujmovic again stated the previous Council passed Amendment 7 and 8, so if this City Council is legally obligated to follow what they follow, the decision was made by that Council and not by this current Council. He fundamentally disagrees with the process that led to both of those amendments and does not believe that those elected to represent their community were actually representing their community. He cannot say yes to that, and some people may think this is being a chicken, but that was their decision and not Councilor Dujmovic's. If he okays that he does not want to be on the record as saying he agrees or he permitted that. The same outcome may result but he will not be saying he agrees with their approach.

Councilor Watson stated that is exactly where he is standing. He cannot vote no because he wants Mr. Dillon to proceed but he is exactly where Councilor Dujmovic is because the foundation upon which this is based is flawed and inaccurate, it cannot be proven. He is trying to move things along because he respects the Harpers. He clarified his motion to adjourn is to let this thing die and be approved.

For Mayor Ries it is what was previously stated, and because it is non-compliant...and having co-pending plans that are all equally non-compliant. She is serious about negotiating and serious negotiators do not take 10 minutes, they do it right and they do it in good faith to reach five yes votes.

**[04:18:4] MOTION by Councilor Shah to adopt Resolution #1427 to approve Island Field with conditions outlined. Motion failed for lack of a second.**

Administrator Kress asked if they can handle some of the other items as they have been hanging here for months. Many things he does not even put on the agendas because they do not get to them. He shared that it gives Staff extra load and he is about exhausted with how much time and effort they are putting into these projects and it is really frustrating for him personally.

**9c. Discussion and possible action on convening meetings in public**

Mayor Ries asked if the Council wants to come back in person as the Governor's Executive Order is now expired.

Administrator Kress clarified the question is whether they will continue to use Zoom in addition to being in person; are they going to leave that platform available to a consultant if they cannot make the meeting or leave it on the table for a resident to make public comment.

Mayor Ries proposes leaving it open for a couple more months and then assess, noting the Councilors are required to be in person.

Attorney Thomson clarified the remote meeting rules; they are talking about in-person meetings with a possible exception once-in-awhile. Come the next regular meeting, the Council really will not be allowed to meet remotely because of the pandemic. He stated that is not what the Council is proposing; rather, they are proposing to meet in person but allow people and consultants to participate along.

Administrator Kress said the other issue is the estimates from the design company to do reformatted e-newsletters and other updates that was brought up a couple months ago. He noted it is a local resident, logo redesign is estimated at \$5,000-7,000, postcard printing \$1,000, and he said all-in they are probably at under \$20,000 but it depends on what the City wants – he pointed out the City does not have to do everything.

The Council decided to table until they take a better look at the budget and priorities of what they are trying to accomplish.

Councilor Watson said it seems to him they are doing a lot of duplication with NOHOA on certain activities; he noted he came from a time when they partnered on a lot of things and they used the City budget because it is tax deductible and NOHOA dues are not tax deductible. In thinking about financial advantages that is one of them. He saw MEL's services putting up stop signs the other day and putting up signs as a home owners' association is really not proper – if

they want to enforce those things they must follow MnDot sign standards as a City otherwise citations are not enforceable which comes from a judge in Ramsey County.

**[04:33:00] MOTION by Hara, seconded by Watson, to adjourn. Motion failed by roll call vote as Councilmembers Watson and Hara voted for; Councilmembers Shah, Dujmovic, and Ries voted against.**

The Council continued discussion on the unique value of North Oaks and the fact that every issue and discussion is connected rather than isolated.

**[04:45:03] MOTION by Shah to adjourn. Motion failed for lack of a second.**

Administrator Kress asked if they can go through the Master Utility update with Mr. Korby.

Mayor Ries said that would be great. She also has an issue to discuss; it was brought to her attention today that there is discussion that they would be trespassing on the development land. For example, if Mr. Korby were to go out and check on progress at development sites he would be accused of trespassing. She would like Attorney Thomson to weigh in on whether Mr. Korby has an obligation to go and fulfill his duty as City Engineer to check up on conditions or development and if that would be trespassing.

Administrator Kress said the City and its agents (meaning the City Engineer, City Attorney, City Planner, City Administrator) can access the site if they were there to look at improvements to the site. Any construction-related items are what they would be looking at.

Engineer Korby gave an Engineering Report regarding the bluff at 20 Evergreen, the 4 development projects including Gate Hill, and the MS-4 permit. He noted they dealt with the 5-year MS-4 and got that turned in, and will now be working on the annual MS-4 permit. They have also been working with the North Oaks Country Club and the Met Council. Mr. Korby wants to get going on the rate study and the master utility study.

#### **10a. Night to Unite Proclamation**

#### **11. CITY ADMINISTRATOR REPORTS None.**

#### **12. CITY ATTORNEY REPORTS None.**

#### **13. MISCELLANEOUS**

##### **a. March 2021 Forester Report**

#### **14. ADJOURNMENT**

**MOTION by Watson, seconded by Hara to adjourn. Meeting adjourned at 12:04 a.m.  
Motion carried unanimously by roll call.**

Kevin Kress

Kevin Kress, City Administrator

Date approved 8/12/2021

Kara Ries

Kara Ries, Mayor