

**CITY OF EAGLE LAKE
CITY COUNCIL MEETING
JANUARY 19, 2022**

CALL TO ORDER

- Mayor Auringer called the meeting to order at 6:00 p.m.

ROLL CALL

- Council Members present: Garret Steinberg, Beth Rohrich, Anthony White, John Whittington, and Mayor Tim Auringer.
- Staff present: City Administrator Jennifer Bromeland, Police Chief John Kopp, and Deputy Clerk Kerry Rausch.

NEW BUSINESS

1. Update on Public Hearing Scheduled for Annexation for Parcel R19.10.192.510.08
 - Administrator Bromeland stated the hearing has been cancelled due to the applicant's request to withdraw the petition for annexation.
2. Hearing to Review Conditional Use Permit for 107 598th Avenue (Bella's House of Doodles, LLC)
 - Administrator Bromeland provided the following information, stating that Angela DeMartini, owner of Bella's House of Doodles, was asked to appear at tonight's meeting to review with the City Council the Conditional Use Permit (CUP) for 107 598th Avenue. The purpose of the hearing is to review the CUP and determine whether the current violations warrant its revocation and/or whether an extension of the expired agreement to temporarily operate the business out of the secondary building is appropriate so long as certain conditions are met. She stated that discussion should include the following:
 - A) Status update for each of the outstanding inspections and anticipated date of completion
 - 1) Framing Inspection
 - 2) Insulation inspection
 - 3) Plumbing rough-in
 - 4) Plumbing final
 - 5) Mechanical permit
 - 6) Mechanical rough-in
 - 7) Mechanical final
 - 8) Verification of electrical final completed by the state electrical engineer
 - B) Timeline for completion of the main building and timeframe needed for an extension to continue operating out the secondary building
 - C) Approximate number of gallons of water used prior to the meter being installed
 - D) Plans for installing fencing for outdoor exercise area for dogs
 - E) Address trespassing allegations involving adjacent properties and provide assurance that this will not be an ongoing issue
 - F) Provide acknowledgement that there will not be outdoor storage of materials – the business must be enclosed except for the fenced in outdoor exercise area for the dogs
 - G) Timeframe for removal of ancillary building placed on parcel without a permit
 - H) Kennel permit for 2022
 - Rick DeMartini, 57370 174th Lane, Good Thunder, stated the framing and insulation inspections have been completed, the plumbing work is taking place now since the permit was received on December 16th. Once the plumbing is complete, it will be inspected, and the concrete will go in. The building is already insulated, and the mechanical will be installed and the building will be complete. The interior doors and interior steel has been guaranteed to arrive by February 14th and

asked for a certified letter from the contractor that it would be received by the February 14, 2022 date and if materials cannot be received by the February 14th date Mr. DeMartini will break his contract and purchase these materials at Menards to complete the construction. He should know this by February 1, 2022. Mr. DeMartini is forecasting the building will be complete and occupancy approved by April 15th and the parking lot concrete and fence completed by June 15th. He stated he was unaware that the water meter was not installed and that they started using their water in November. He asked that Council consider looking at their current water usage and back bill them for two months or compare Scott Borgmeier's water usage now and when there were using his water to determine what their water usage used to be and then bill them according for the past two months. Mr. DeMartini also stated that the plumber should complete his work in 1-2 days, but with the frost in the ground he is expecting it to take one week. It will be heated to get the frost out. Mr. DeMartini stated the mechanical permit has already been applied for and purchased from Schwartz.

- Council stated that a fencing permit for the kennel run will need to be applied for and will need to be inspected, that trespassing on neighboring properties needs to stop and that feces needs to be cleaned up.
- Administrator Bromeland will follow up to ensure that inspections are completed. She stated there is a recorded tank agreement allowing the use of an LP tank until a gas line becomes available to connect to. Confirmation is still needed to verify that the framing and insulation inspections have been completed.
- Rick and Angela DeMartini stated that she spoke with her attorney about the trespassing and that all 18 of her employees have received a mass text advising to remain on the business's property and pick up feces and to not drive through the neighbor's lot and that if they got caught they would be terminated immediately. Rick DeMartini stated he believes that people are using the access on Mr. Johnson's property, going through their and Mr. Borgmeier's properties to get to Casey's and that he has video showing who is coming through. He went on to state that once the concrete and curbing is installed this would prevent people from driving through. Angela stated that she thinks people think this is an access road. Mr. DeMartini stated there will be a trailer placed east to west to stop people from driving through.
- Council stated that when their project construction is complete that there will be no outside storage allowed as is stipulated by zoning code for this district. Mr. DeMartini stated there is no intend for outdoor storage, except a trailer occasionally. Council indicated that they would look into other businesses who are storing items outdoors in this zoning district and that all equipment has to be indoors.
- Mayor Auringer also stated that any dumpster will need to be fully enclosed with a dumpster enclosure and that the ancillary building has not been permitted. Mr. DeMartini was asked what his timeframe for removing this building is. Mr. DeMartini stated he is hoping to keep the ancillary building there, that it is a shed and has its own foundation and has five skids. It was custom built by Dakota Sheds, has spray foamed insulation, the electrical in done and has its own water. He also stated that the intention was always to bring it to the new location for overflow or a sick bay because it has four kennels inside. Mayor Auringer stated this was never relayed to the Council and that he would like to see the building gone immediately. Mr. DeMartini stated he did not know sheds needed to be permitted and that they live in the country and don't know city rules and that they are just trying to have a business here and that Angela employees 18 people with a payroll over \$100,000 from June to January 1st. She expects to employ over 30 people when she goes full-time with over \$200,000 in payroll. He went on to state that the land is frozen and that to remove the ancillary building (shed), the land would need to be heated/chipped away and that he would

need to ask Dakota Storage Buildings to move the shed. If it is required to be moved, he asked that he be given until spring to do so.

- Mayor Auringer reminded the DeMartini's that they have a signed CUP and agreement with the City. Mr. DeMartini stated that he thought the agreement was to have the building up by January 1st and that it is his fault that it is not ready for occupancy. He also stated that the plumbing permit was pulled in August and not received until December and that this delay was not communicated with the City.
- Administrator Bromeland explained that a kennel license has not been issued for 2022 and that staff would like Council direction as to issuing a kennel license in view of the violations to agreement and CUP. City Attorney, Chris Kennedy stated it is typical for kennel licenses to run the calendar year and that Council will want to limit the number of dogs on the premise. Mayor Auringer stated he feels the kennel process may need to be reviewed.
- Mrs. DeMartini stated that her facility is not just for breeding, that it is similar to the Paw, but on a smaller scale. She provides boarding, daycare, grooming and retail services. Both Mr. and Mrs. DeMartini stated they are looking at a maximum of 35 dogs on premise at a given time, that they currently have 18 5 x 10-foot kennels in the garage structure, are looking to install eight more in the main building, and that puppies are not included in the total number of dogs on premise. They also stated they would like to have more kennels in the ancillary building. She also stated they stopped using the ancillary building as part of their business effective immediately after the January 3, 2022 City Council meeting.
- Chris Kennedy stated that city code currently states that a dog does not need to be licensed if it is under 90 days old.
- Mayor Auringer stated the CUP allows for unannounced surprised inspections, which Mayor Auringer intends to look at. His concern personally is what is going on on-site. Mr. and Mrs. DeMartini stated the Council is welcome to stop in any time. Also addressed was the fact that the state license only stipulates the maximum of 10 breeding dogs, not the number of dogs on premise.
- Mayor Auringer also stated that the intent of the signed agreement was for the temporary utilization of the garage until the main building was constructed. The DeMartini's indicated they need to continue utilizing the garage as part of their business operations to make the business work.
- Council discussion included that they feel the completion date of April 15, 2022 is optimistic, that the Council was hoping to see a written presentation of the dates for project completion. Also discussed were the current 18 kennels plus 8 more in the main building which totals 26 kennels and the anticipated maximum of 35 dogs on site at a given time and where all the dogs would be located. Discussion also included if all kennels are full and some of the dogs do not get along, where they will be located/housed. This is why they would like to use the ancillary building. The main building would be used for daycare, grooming, 24 hours doggy wash, and offices. The garage would be used for kennels and that since this is a tall building, it will help with the noise being heard from outside. Council responded with a suggestion that the number of dogs be limited to the number of kennels they have. The DeMartini's stated that daycare dogs do not hold a kennel space, that they are located in the indoor or outdoor play area. The indoor play area is divided into three sections, the dogs are assessed as to friendliness, and then it is determined which area they will be staying in. If a dog needs to be placed in a kennel it will use one that is not being used at that time. She also stated there is always staff present with the daycare dogs. She does not count daycare dogs in the kennel animal count. She went on to state that she needs the garage as part of the business and that if she is unable to use it as such she may just as well move out. Construction costs have increased over original anticipated costs.

- Council indicated they would like to look at all aspects of the business at this time to ensure that all issues and concerns are addressed for both the City Council and the DeMartini's. It was also stated the business plan presented to Council originally was very clear, in that the garage would only be used as a storage warehouse, and that the DeMartini's knew when they moved in that they would use this building as a location for dogs and that the original agreement was never followed; that the DeMartini's plans did not match the business plan they presented Council and that Council needs to receive their actual business plan for all the buildings. Mr. DeMartini stated that the original plans presented to Council needed to be changed due to building code requirements.
- Council asked if the DeMartini's had any other plans for their business which were not included in the CUP and signed agreement. They stated they have the amount of green space they need for the dogs. The business plan the Council has states 8 kennels and that they currently have 18 and intend to expand on that. The DeMartini's stated they have no other business plans. Angela stated their vision has not change and that going forward, if she needs to make one building work, she will have to. She also stated she needs both buildings.
- Chris Kennedy explained the process to amend the CUP, stating the CUP runs with the land and does not usually include buildings. He stated that Council can limit the number of dogs and kennels on the premise, as well as the size of the kennels. He also stated Council should consider fencing, concrete, blacktop, the maximum number of kennels and the size of kennels. He also stated that it is the DeMartini's responsibility, not the City's, to know the city's code/laws and abide by them and that if they are not abiding by then to then accept the consequences. He also recommended the DeMartini's read city code which is online on the City's website. Mr. DeMartini stated he would be contacting the City all the time in the future.
- Mayor Auringer stated the three options before Council include: 1) allow the two primary buildings and the ancillary building and consider the CUP altogether, 2) Rescind the CUP, in which case a closed meeting would need to be scheduled, and 3) have the DeMartini's return to the City Council meeting with additional information for a new CUP which would need a public hearing. Nothing would need to go to the Planning Commission. The CUP could be strengthened, as the city attorney recommended, as to the maximum number of dogs on site, whether the entire perimeter of property would need to be fenced.
- Council discussion included understanding the material issue, with a new business plan should be submitted. All proper procedures need to be followed.
- Mr. DeMartini stated originally, he was planning to use the garage as his shop and to store his dump truck and that his other option would be to store it at his father-in-law's house. He also stated that Angela did not know what she was getting into when she started this business, that originally there was going to be breeding and grooming at the building. Since then, they have added to doggy day care and kennel portion of the business.
- Mrs. DeMartini stated that the on-site vet will not happen, she may have a veterinary technician for her private use. She has two groomers who are currently in training. She also stated that she has checked with other businesses and learned that it is the local ordinance which controls the number of dogs a business can have on site at a given time.
- Mr. DeMartini stated their kennels are 5 feet by 10 feet and that all dogs have their own kennels, except occasionally two of their breeding dogs may share a kennel. Chris Kennedy stated there is a rule that dogs cannot be handled in a negligent manor, there is no given human to dog ratio.
- Council stated they no longer want to hear "I don't know" or "I didn't know" as an answer, that the owners need to know.
- Council stated if there are delays in construction the DeMartini's need to communicate this with staff immediately and directed the DeMartini's to provide City Council with a modified business

plan, intended use of each building, and include all aspects of the business and accurate use of the buildings. A clear and accurate statement of their needs must be presented to Council.

- Chris Kennedy laid out a timeline for the recommended process, stating an updated business plan, and the intended use of each building needs to be submitted by February 20th, the City Council will review this at the March 7th City Council meeting, and that a public hearing will be scheduled for the April City Council meeting. He also stated it will be City Council's responsibility to determine what is appropriate for the space and that staff will need two weeks to review the information provided prior to it going before Council.
 - Mayor Auringer summarized the following: complete the check list items, review of the business plan, how that looks with the number of dogs and clearly indicate the use of each building on the premise so the CUP for the entire property can be reviewed by Council. Also needed is an accurate, modified business plan. Mayor Auringer also stated the current CUP will need to be followed during this process.
 - Mr. DeMartini asked about fencing materials required. Administrator Bromeland stated a chain link fence would be sufficient and that a privacy fence is not required. Mr. DeMartini stated they will do their best to control dog barking while the dogs are outside. This could be determined at the public hearing. He also asked if he could plow snow into the ditch. He was directed to contact Blue Earth Council Engineer on this issue. He was directed to keep the fire hydrant area clean.
 - The permitting process is a separate issue from the CUP.
 - Council indicated they would also like to see addressed parking plans and number of stalls to ensure parking needs are met and also the plans for garbage storage/enclosure. The parking plan was filed with the site plan, the DeMartini's are currently taking their garbage home with them.
 - The permitting of the third building will be separate from the CUP. The reason staff was not comfortable with the use of this building and that it did not match the original conditional use permit. Initially when we thought it was a shed it would be handled differently than being used as part of operation of the business.
 - Council asked for an update of construction progress at the March 7th City Council meeting, since materials should be delivered by February 15th, either in writing or in person.
 - Administrator Bromeland will provide the DeMartini's with a follow-up of items discussed tonight and items they need to provide the City.
 - Council consensus was to move forward with the DeMartini's presenting a new business plan and the timeline which Mr. Kennedy presented.
3. 317 LeRay Avenue and Next Steps for Nuisance Abatement Action
- Administrator Bromeland explained that discussion took place at the January 3rd City Council meeting regarding the property at 317 LeRay Avenue and alleged nuisance violations related to storing sheet metal. A letter was sent to the property owner by legal counsel on January 4th, giving the property owner seven days to contact the City with a plan to bring the property into compliance within the next fourteen days. The property owner did contact Chief of Police John Kopp within the seven-day timeframe but has not yet brought the property into compliance within the fourteen-day timeframe given.
 - Chief Kopp stated he spoke with the property owner and the person with the dumpster. The owner of the dumpster (Chad Petersen) told Chief Kopp that he has a trailer to move the dumpster which is currently at Topper's Plus for service. Chief Kopp told him about tonight's meeting. Chief Kopp also stated that the police department is monitoring and documenting daily the issue of the property being brought into compliance. To date the property is not in compliance and a long trailer with two junk vehicles is parked on the roadway.

- Mary, mother of Chad Petersen, stated Chad has a disability and health challenges and explained what those are. She stated Chad has received funding to repair the trailer needed to move the dumpster, but that Topper's Plus would not be able to look at it until the end of the week. She also stated that the cost of the repairs needed would determine if sufficient funding is available. She asked for additional time to removed necessary items.
 - Chris Kennedy, the City's attorney, stated that the issue is with the owner of the property, Jenni Baker, and that she could evict Chad. He stated there are concerns that a scrapping business is being run out of this property which is not allowed by City code in a residential district.
 - Chief Kopp stated that Chad has told police officers that he is not running a business out of this property, that it is based out of Pemberton and that he has a different location to sort metal.
 - Chad's mother stated Chad brings items to Eagle Lake to then take to scrap. Mr. Kennedy stated she has described a business being run out of 317 LeRay Avenue, that it is part of the chain.
 - Chris Kennedy stated that additional notification would be needed to go to court to get approval for abatement.
 - Mayor Auringer stated he would like this issue to be brought before the Council at the February 7th City Council meeting, allowing for the trailer to be repaired, and that if there is no resolution going forward to move forward with abatement. He stated he is looking for progress.
 - Chief Kopp asked for clarification in that the dumpster is not allowed within City limits. That is correct and once it is removed, it cannot be brought back into the City and cannot be on the property overnight to be removed in the morning.
 - Council Member Steinberg moved, seconded by Council Member White, to grant an extension to February 7, 2022 for the property to be brought into compliance. The motion carried with Council Members Steinberg, Rohrich, White, Whittington, and Mayor Auringer voting in favor.
4. Contract with Region Nine for Strategic Economic Development Plan Services
- Administrator Bromeland stated that in the Council packet is a contract from Region Nine for services related to researching and creating a Strategic Economic Develop Plan for the City of Eagle Lake. By signing the contract, Eagle Lake agrees to pay \$75 per hour to Region Nine. The cost for services will not exceed \$15,000. The cost for this contract will be paid for utilizing a \$10,000 grant from Sothern Minnesota Initiative Foundation (SMIF) that was obtained for the purpose of developing a strategic economic development plan and initiative. The City's match will be paid for using funds allocating in the 2022 budget for this purpose (101-41600-300).
 - Council Member White moved, seconded by Council Member Rohrich, authorizing Administrator Bromeland to sign contract with Region Nine for a Strategic Economic Development Plan. The motion carried with Council Members Steinberg, Rohrich, White, Whittington, and Mayor Auringer voting in favor.

ADJOURNMENT

- Council Member White moved, seconded by Council Member Whittington, to adjourn the meeting at 8:01 p.m. Motion carried with Council Members Steinberg, Rohrich, White, Whittington, and Mayor Auringer voting in favor.
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Tim Auringer, Mayor

Kerry Rausch, Deputy Clerk