

*City Council Proceedings*

State of Minnesota  
Counties of Scott & Le Sueur  
City of New Prague



City Council Meeting  
Monday, July 9, 2007

Mayor Bender called the meeting to order with the following members present: Bender, Jirik, Kratochvil, Flicek, Wilcox. Absent: None

Council Member Kratochvil offer the following Resolution and moved for its adoption.

RESOLUTION 07-07-09-01

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL AMENDING A CONDITIONAL USE PERMIT TO ALLOW A MEAT MARKET WITH ASSOCIATED MEAT PROCESSING AND SMALL SCALE SLAUGHTERING TO LOCATE AT 400 MAIN STREET WEST, PART OF LOTS 1 AND 2 BLOCK 1, SUCHOMEL ADDITION TO THE CITY OF NEW PRAGUE, IN THE B-3 ZONING DISTRICT, NEW PRAGUE, MINNESOTA.

WHEREAS, Randolph and Lisa Kubes, owners of the following real estate in the County of LeSueur to wit:

Lot 1 and Lot 2, Less the West 40' of Lot 2, Block 1, Suchomel Addition to the City of New Prague, Minnesota, also, less the south 60' of Lot 1 and the south 60' of Lot 2, LeSueur County, Minnesota.

are requesting a Conditional Use Permit to allow a meat market with associated meat processing and small scale slaughtering to locate on the above described property, in the B3, Highway Commercial Zoning District; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request (Amending #C6-2006), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 27th day of June, 2007, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted with a vote of 2-1 (Remfert dissenting and Gengel and Gilman absent) to forward the matter to the City Council with a recommendation for approval subject to findings contained in staff report Amending C6-2006 and those listed during the Planning Commission Meeting approving the small scale slaughtering; and,

WHEREAS, the New Prague City Council finds:

1. The use of the property for a retail meat market with associated meat processing and small scale slaughtering will not create an excessive burden on existing parks, schools and other public facilities which serve or are proposed to serve the area. The stated use may create a burden on the surrounding public roads created by on-street parking. The

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property is very small and only two parking spaces are provided on the site and required by a previously conditional use permit. Denying any use of the building based on the lack of parking would not be reasonable.

2. The property is not located adjacent to any residentially zoned or used land so there is no chance that the proposed retail meat market with associated meat processing and small scale slaughtering will cause depreciation on adjacent residential property values, and the proposed uses have been found to be compatible with surrounding land uses.

3. The structure has existed at this site for decades. There are no residentially zoned or used properties adjacent to this site, and therefore the existing structure and site will not have an adverse affect on adjacent residential properties.

4. The City has determined that a re-use of the building for retail meat market with associated meat processing and small scale slaughtering is in the best interest of the city and the citizens of New Prague and is reasonably related to the overall needs of the City.

5. The proposed retail meat market with associated meat processing and small scale slaughtering is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate.

6. The retail meat market with associated meat processing and small scale slaughtering is not in conflict with the Comprehensive Plan which guides the area to commercial uses.

7. The use of the property for a retail meat market with associated meat processing and small scale slaughtering should not cause substantial traffic hazard or congestion. There is a lack of parking on the site and therefore customers and some employees will likely utilize on-street parking, which may affect traffic issues at times.

8. Adequate utilities, drainage and necessary facilities have been provided to the site. An access road / gravel alley exists on the south and east side of the property, which may be improved in the future.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, MN, that the Conditional Use Permit to allow a retail meat market with associated meat processing and small scale

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slaughtering to locate on the above described property in the B-3 Highway Commercial Zoning District is hereby approved, with the following conditions:

1. The conditional use permit amendment is issued for a period of one year, and shall become null and void without further action from the Planning Commission unless used within one year of the date granting the permit.
2. All the original conditions and variances from Conditional Use Permit #C6-2006 will remain in effect.
3. The Conditional Use Permit is issued in accordance with the site map dated 6/6/07 on file with the New Prague Planning Department.
4. Two parking spaces, as identified on the 6/6/07 site plan, shall be improved in accordance with Section 717 of the Zoning Ordinance which requires paving and striping of the spaces and a tree to be planted for shading and a security light before the building can be occupied with the proposed use.
5. There shall be no outside storage allowed on the site other than within a dumpster, garbage container or refuse bin that shall be screened from view in accordance with Section 703 of the Zoning Ordinance. Any dumpster used must be emptied a minimum of one time per week, be completely sealed to prevent liquids from spilling out and have a tightly sealed lid to prevent smells from escaping. The City will require more frequent disposal if complaints are received about smells or appearance.
6. Meat processing small and scale slaughtering will only be allowed within the rear (south) portion of the building behind the retail portion of the store and shall be screened from public view.
7. The transport of the animals must be invisible to the public and unloading of animal carcasses and live animals into the building must be screened completely from public view by the use of a "chute" or other such screening device.
8. Live animals are not allowed to be stored within the building waiting for slaughtering for periods exceeding 1 hour and shall be limited to one live animal at a time.
9. No byproduct rendering will be allowed on site.

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10. The applicant must comply with all recommendations of the public works director.

11. Delivery of live animals is limited to the hours between 5AM and 7AM.

Council Member Jirik seconded said Resolution and upon roll call the following vote was recorded.

	AYES	NAYES
Bender	_____	<u>  X  </u>
Flicek	_____	<u>  X  </u>
Jirik	<u>  X  </u>	_____
Kratochvil	<u>  X  </u>	_____
Wilcox	_____	<u>  X  </u>

Resolution failed.

Motion Wilcox, Second Kratochvil.

Approve preliminary plat New Prague Commons with the following findings:

1. The preliminary plat complies with the purpose and intent of the New Prague Comprehensive Plan and Subdivision Ordinance.
2. The plat conforms to the requirement of the B-2 Community Commercial Zoning District in which it is located.
3. Approving the plat will allow the construction of a commercial development on the site.

And with the following conditions:

1. Approval is granted in accordance with the preliminary plat drawing dated 6/18/07 on file with the New Prague Planning Department.
2. The applicant must comply with the recommendations of the LeSueur County Engineer, New Prague Public Works Director and the City Engineer.
3. There shall be no direct access allowed onto Trunk Highway 19/13 from any lot proposed in the plat of New Prague Commons.
4. Drainage and utility easements will be needed at 10' along all lot lines abutting road right of way and adjacent property not included in the plat. 10' drainage and utility easements are needed along all internal lot lines excluding the lot line dividing Lot 1 and Lot 2, Block one as these lots will be combined into one lot at a future date.

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5. The final plat and title opinion must be approved by the City Attorney before final plat approval.
6. Lots 1 and 2 Block 1 must be combined with a combination deed upon the expansion of a proposed commercial building to cross over the property line.
7. A 10' water main must be provided across the south side of the property as a continuation of the 1<sup>st</sup> Street SE water main loop and connect to the water main proposed in Alton Ave. SE. This water main must be covered by a utility easement.
8. If the north water main is provided between Chalupsky Ave. SE and Alton Ave. SE it should be covered by a utility easement.

Motion carried.

Council Member Kratochvil offered the following Resolution and moved for its adoption.

RESOLUTION #07-07-09-02

RESOLUTION OF THE NEW PRAGUE CITY COUNCIL APPROVING A VARIANCE FROM THE REQUIREMENT THAT FENCES MUST BE NO MORE THAN 4' IN HEIGHT WITHIN` 30' OF A STREET RIGHT OF WAY AND ALSO FROM THE REQUIREMENT THAT FENCES IN AN INDUSTRIAL ZONED PROPERTY CANNOT EXCEED 6' IN HEIGHT TO ALLOW A FENCE TO BE 7' IN HEIGHT INCLUDING BARBED WIRE IN THE I-1 LIGHT INDUSTRIAL ZONING DISTRICT, NEW PRAGUE, MINNESOTA

WHEREAS, Lucas Properties, owner of the following real estate in the County of Scott to wit:

Parcel 1:

Beginning at a point 635 feet and 2 inches South of the northwest corner of the Southwest Quarter of Section 34, Township 113, Range 23, Scott County, Minnesota; thence running South a distance of 202 feet and 10 inches; thence running East a distance of 198 feet; thence running South a distance of 88.5 feet; thence running East a distance of 170 feet, more or less, to the westerly boundary of the Minneapolis and St. Louis Railroad Company's right of way; thence running north along the westerly boundary of said right of way a distance of 291 feet and 9 inches; thence running West a distance of 353 feet, more or less, to the point of beginning.

EXCEPTING there from the westerly 33 feet of the northerly 202 feet and 10 inches which is now a part of State Trunk Highway No. 21.

And also EXCEPTING there from the following described parcel of land:

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Commencing at a point on the west line of the Southwest Quarter of Section 34, Township 113, Range 23, said point being 635 feet 2 inches South of the northwest corner of said Southwest Quarter; thence South along the west line of said Southwest Quarter a distance of 96 feet; thence East perpendicular to said west line a distance of 170 feet; thence North parallel to said west line a distance of 96 feet; thence West a distance of 170 feet to the point of beginning.

(Abstract)

Parcel 2:

That part of the Southwest Quarter of Section 34, Township 113, Range 23, Scott County, Minnesota described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 34; thence South on an assumed bearing along the west line of said Southwest Quarter, a distance of 313.00 feet to the point of beginning of the land to be described; thence continue South along said west line of the Southwest Quarter, a distance of 322.17 feet; thence North 87 degrees 54 minutes 43 seconds East, a distance of 373.43 feet; thence North 8 degrees 01 minute 14 seconds East, a distance of 327.03 feet to the intersection with a line bearing North 87 degrees 54 minutes 43 seconds East from the point of beginning; thence South 87 degrees 54 minutes 43 seconds West, a distance of 419.09 feet to the point of beginning.

EXCEPTING there from the following described parcel of land: Commencing at the northwest corner of the Southwest Quarter of said Section 34; thence South on an assumed bearing along the west line of said Southwest Quarter, a distance of 313.00 feet to the point of beginning of the land to be described; thence East a distance of 416.66 feet; thence North 8 degrees 01 minute 14 seconds East, a distance of 15.42 feet to the intersection with a line bearing North 87 degrees 54 minutes 43 seconds East from the point of beginning; thence South 87 degrees 54 minutes 43 seconds West, a distance of 419.09 feet to the point of beginning.

(Torrens Certificate No. 22189)

is requesting a variance from the requirement that fences must be no more than 4' in height within 30' of a street right of way and also from the requirement that fences in an industrial zoned property cannot exceed 6' in height to allow a fence to be 7' in height with barbed wire on the top in the I-1 Light Industrial Zoning District, which is located on the above described real estate; and,

WHEREAS, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said

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request (V3-2007), a copy of said report has been presented to the City Council; and,

WHEREAS, the New Prague Planning Commission on the 27th day of June, 2007, after due consideration of presented testimony and information, voted unanimously (3-0) to forward the matter to the City Council with a recommendation for approval; and,

WHEREAS, the New Prague City Council finds:

1. Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the area because other properties in the immediate vicinity already have fences which are 6' in height along the County Road 37 right of way and used for security purposes while the subject property does not have the ability to install such a fence due to the current zoning ordinance.
2. The literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same area under the terms of this ordinance because those other properties already have 6' tall fences along the right of way which are able to remain as grandfathered fences and those properties also are more visible to adjacent road right of ways to deter theft.
3. Special conditions and circumstances do not result from the actions of the applicants because the theft on the property and the cars driving through the property causing unsafe work conditions are not under the control of the property owners without the fence being in place.
4. The granting of the variance requested will not confer on the applicant a special privilege that is denied by this ordinance to owners of other lands, structures or buildings in the same district because of the 6' tall fences in place on the two properties located to the east of the subject property along the County Road 37 right of way and also because there are not other properties in this vicinity which have a portion of their property which are largely invisible from adjacent road right of ways which causes the need for security fencing.
5. The variance for a 6' chain link fence within 30' of the road right of way along County Road 37 would not be materially detrimental to the purpose of this ordinance and will also not adversely affect the neighborhood because it would match the existing 6' tall security fencing located to the east along County Road 37. The 7' tall fence with barbed wire on the south

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side of the property will also not be materially detrimental to the purpose of the ordinance or adversely affect the neighborhood because it will be located over 140' from the TH 21 right of way and not be immediately visible to adjacent properties.

6. The granting of the variance for the 6' chain link fence without the barbed wire on top would be reasonable adjacent to the County Road 37 right of way as it would fit in with the surrounding properties in terms of appearance to the east on County Road 37 that also have 6' tall chain link fences for security purposes. Staff believes that the barbed wire and 7' height fence on the south side of the parcel is reasonable because it would not be visible from adjacent roadways and would provide the needed security measure for the site to help prevent further theft.

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, Minnesota, that the request for variance #V3-2007 to allow a variance from the requirement that fences must be no more than 4' in height within 30' of a street right of way and also from the requirement that fences in an industrial zoned property cannot exceed 6' in height to allow a fence to be 7' in height including barbed wire in the I-1 Light Industrial Zoning District, as proposed by Lucas Properties is hereby approved based on the above findings and with the following condition:

1. The fence on the north side of the building along County Road 37 will be allowed at 6' in height without barbed wire and the fence on the south side of the building will be allowed at 7' in height including barbed wire, both of which locations are indicated on the "Staff Suggestion Map" dated 6/11/07 on file with the New Prague Planning Department.

This Variance approval becomes effective immediately upon its passage and without publication.

Council Member Flicek seconded said Resolution and upon roll call the following vote was recorded.

	AYES	NAYES
Bender	_____	___ <u>X</u> ___
Flicek	_____	___ <u>X</u> ___
Jirik	___ <u>X</u> ___	_____
Kratochvil	___ <u>X</u> ___	_____
Wilcox	___ <u>X</u> ___	_____



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Thereupon Mayor W. A. Bender declared said resolution adopted this 9<sup>th</sup> day of July, 2007.

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W. A. Bender, Mayor

ATTEST:

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Jerry Bohnsack, City Administrator

Council Member Wilcox offered the following Resolution and moved for its adoption.

RESOLUTION #07-07-09-03

RESOLUTION AUTHORIZING THE CITY OF NEW PRAGUE  
TO ENTER INTO MNDOT AGREEMENT NO. 90909

IT IS RESOLVED BY THE CITY COUNCIL OF CITY OF NEW PRAGUE, MINNESOTA that the City of New Prague enter into Mn/DOT Agreement No. 90909 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City of the State's share of the costs of the intersection improvement construction and other associated construction to be performed upon, along and adjacent to Trunk Highway No. 21 from 500 feet south to 700 feet north of County State Aid Highway No. 37 and on 6<sup>th</sup> Street Northwest from 600 feet west of Trunk Highway No. 21 to Trunk Highway 21 within the corporate City limits under State Project No. 7002-42.

IT IS FURTHER RESOLVED that the Mayor and the City Administrator are authorized to execute the agreement and any amendment to the Agreement.

Council Member Jirik seconded said Resolution and upon roll call the following vote was recorded.

	AYES	NAYES
Bender	<u>  X  </u>	_____
Flicek	<u>  X  </u>	_____
Jirik	<u>  X  </u>	_____
Kratochvil	<u>  X  </u>	_____
Wilcox	<u>  X  </u>	_____

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Thereupon Mayor W. A. Bender declared said resolution adopted this 9<sup>th</sup> day of July, 2007.

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W. A. Bender, Mayor

ATTEST:

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Jerry Bohnsack, City Administrator

Council Member Jirik offered the following Resolution and moved for its adoption.

RESOLUTION #07-07-09-04

RESOLUTION APPROVING PLANS AND SPECIFICATIONS  
AUTHORIZING ADVERTISING FOR BIDS  
TRUNK HIGHWAY 21/6<sup>TH</sup> STREET NW REALIGNMENT

WHEREAS, pursuant to resolution passed by the City Council plans and specifications for the Trunk Highway 21 and 6<sup>th</sup> Street NW realignment have been prepared by the City's consulting engineer and under the direction of City staff, who have presented such plans and specifications to the City Council for approval.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CITY OF NEW PRAGUE, MINNESOTA that plans and specifications for the realignment of 6<sup>th</sup> Street at Trunk Highway 21 are hereby approved and placed on file in the office of the City Administrator.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF NEW PRAGUE, MINNESOTA that the City Administrator shall prepare and cause to be inserted into the official paper and in the Construction Bulletin and advertisement for bids upon the making of such improvement under such approved plans and specifications. The advertisement shall be published twice, with the last publication at least ten days before the date set for bid opening, shall specify the work to be done, shall state that bids will be publicly opened and considered by the Council at the City Hall and that no bids shall be considered unless sealed and filed with the City Administrator and accompanied by a certified check or bid bond, payable to the City of New Prague, Minnesota for five percent of the amount of such bid.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF NEW PRAGUE, MINNESOTA that the City Administrator and engineer are hereby authorized and instructed to receive, open and read aloud bids

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received at the time and place herein noted, and to tabulate the bids received. The Council will consider the bids, and the award of a contract, at the regular City Council meeting.

Council Member Kratochvil seconded said Resolution and upon roll call the following vote was recorded.

	AYES	NAYES
Bender	<u>  X  </u>	_____
Flicek	<u>  X  </u>	_____
Jirik	<u>  X  </u>	_____
Kratochvil	<u>  X  </u>	_____
Wilcox	<u>  X  </u>	_____

Thereupon Mayor W. A. Bender declared said resolution adopted this 9<sup>th</sup> day of July, 2007.

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W. A. Bender, Mayor

ATTEST:

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Jerry Bohnsack, City Administrator

Council Member Wilcox offered the following Resolution and moved for its adoption.

RESOLUTION #07-07-09-05

RESOLUTION ESTABLISHING A NO PARKING  
RESTRICTION ON 6<sup>TH</sup> STREET NW

S.P. 7002-42

S.A.P.'S 237-107-001, 237-010-001

WHEREAS, the City of New Prague and the Minnesota Department of Transportation have approved the plans for the construction of Sixth Street NW along the new alignment at State Trunk Highway 21; and

WHEREAS, the City and the Department will be expending State Trunk Highway funds, Federal Aid funds and Municipal State Aid funds on the improvement of said street; and

WHEREAS, said improvement does not conform to the approved minimum State Aid width standard with unrestricted parking; and

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WHEREAS, release of the designated State, Federal, and Municipal State Aid funds is dependent on specified parking restrictions;

NOW, THEREFORE BE IT RESOLVED that the City of New Prague shall ban the parking of motor vehicles from both the north and south sides of the new alignment of Sixth Street NW between Sixth Avenue NW and Trunk Highway 21.

Council Member Flicek seconded said Resolution and upon roll call the following vote was recorded.

	AYES	NAYES
Bender	<u>  X  </u>	_____
Flicek	<u>  X  </u>	_____
Jirik	<u>  X  </u>	_____
Kratochvil	<u>  X  </u>	_____
Wilcox	<u>  X  </u>	_____

Thereupon Mayor W. A. Bender declared said resolution adopted this 9<sup>th</sup> day of July, 2007.

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W. A. Bender, Mayor

ATTEST:

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Jerry Bohnsack, City Administrator

Mr. Ken Norland, Manager New Prague Golf Club, briefed the Council on year to date Golf Club operations, Club projections to financially break even for operations, and projected shortfall to pay principal on debt.

Motion Wilcox, Second Flicek.

Approve 2<sup>nd</sup> reading of proposed Ordinance amending City Code:

- Section 72.01 RESTRICTED PARKING DUE TO SNOW
- Section 72.04 PARKING HOURS PARKING ON STREETS
- Section 72.05 VEHICLE REPAIR ON STREETS
- Section 72.06 PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE.
- Section 72.07 TRAFFIC CONTROL DEVICES
- Section 110.21 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.

And adopt said amendments.

Motion carried.

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Motion Kratochvil, Second Jirik.  
Approve First Reading of Proposed Ordinance amending City Code.  
Section 72.03 RECREATION CAMPING VEHICLE PARKING.  
Motion carried.

Motion Jirik, Second Kratochvil.  
Approve 2<sup>nd</sup> Reading of Proposed Ordinance amending Chapter 51.01  
of New Prague City Code regulating Use of Water System.  
Sections 51.01 (C through K) 51.02 (A through F) Adopting Water  
Conservation Plan.  
Motion carried.

Police Chief Vosejпка discussed with the Council the proposed  
use of civil penalties to liquor establishment owners whose  
employees violate liquor laws.

Mr. Vosejпка was directed to bring back a civil penalty schedule  
for consideration.

Motion Wilcox, Second Jirik.  
Approve Change Order #1 for Memorial Library addition -EIFS and  
cedar siding to brick and copper. + \$7,930.00.  
Motion carried.

Motion Wilcox, Second Jirik.  
Approve first reading of Ordinance Amending Chapter 91 of  
New Prague City Code allowing archery in designated park areas.  
Motion carried.

Motion Kratochvil, Second Wilcox.  
Approve the following consent agenda items:  
A. Approve previous meeting minutes.  
B. Approve claims for payment.  
C. Approve May 2007 General Fund Financials.  
D. Approve MN Lawful Gambling Application for exempt permit  
for St. Nicholas Catholic Church on October 26, 2007 at  
the Park Ballroom.

Motion carried.

There being no further business, the meeting was adjourned.

Jerry Bohnsack  
City Administrator