

**MINUTES  
REGULAR MEETING OF THE CITY COUNCIL  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
TUESDAY, FEBRUARY 11, 2020  
7:00 P.M. IN THE COUNCIL CHAMBERS**

**1. CALL TO ORDER AND ROLL CALL**

Mayor Jo Emerson called the meeting to order at 7:04 p.m. Councilmembers Doug Biehn, Steven Engstran, Dan Jones and Bill Walsh were present. Councilmember Kevin Edberg arrived at 7:05 p.m. Staff members present were City Manager Ellen Hiniker, Assistant City Manager Rick Juba, City Engineer Paul Kauppi, Community Development Director Anne Kane, City Clerk Kara Coustry and City Attorney Troy Gilchrist

PLEDGE OF ALLEGIANCE

**2. APPROVAL OF MINUTES**

A. Minutes of the Regular City Council Meeting on January 28, 2020

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran**, to approve the Minutes of the Regular City Council Meeting on January 28, 2020.

Motion carried unanimously.

**3. APPROVAL OF THE AGENDA**

City Manager Hiniker added 9F a rental agreement with Comcast at the Bellaire Center

It was moved by Councilmember **Biehn** seconded by Councilmember **Walsh**, to approve the agenda as presented.

Motion carried unanimously.

**4. VISITORS AND PRESENTATIONS**

A. Susan Vento – Metropolitan Council Representative

Susan Vento introduced herself as the District 11 Representative on the Metropolitan Council, appointed nearly one year ago by Governor Walz. She serves on the Community Development Committee and the Environmental Services Committee where she has been learning about wastewater treatment. Ms. Vento reported that the Metro Wastewater Treatment Plant is known nationwide for its being a high quality service to the community. Ms. Vento was also appointed to the Auditing Committee, Rush Line Committee and the Environmental Quality Board.

Councilmember Edberg noted Ms. Vento's work in water treatment and challenged the Metropolitan Council to think about opportunities to replenish area aquifers with treated waste and stormwater rather than pumping it into the Gulf of Mexico. Ms. Vento relayed a couple of recent conversations regarding a possible northeast water treatment facility in the future.

Councilmember Walsh thanked Ms. Vento for visiting and stated that many of his constituents are not in favor of the Rush Line corridor in either direction. He said the need for transit has not been proven and he believes the Rush Line would deteriorate the City's charming downtown – its best asset. Ms. Vento encouraged everyone to keep an open mind and noted the population is changing along with the opportunity to meet real needs.

Councilmember Jones appreciated Ms. Vento and thanked her for her service. He expressed frustration in the Metropolitan Council stormwater model whereby rates increase with the reduction of stormwater use. He added that although Rush Line has been in the works for 30 years, the Metropolitan Council has been holding back with regard to its role as the eventual manager of Rush Line, which has made it difficult navigating the project through the Rail Authority and Ramsey County Commissioners.

Mayor Emerson thanked Susan Vento for taking the time to visit with the Council.

B. John Haine – Cummins project to evaluate Electric Vehicle Charging stations

City Manager Hiniker introduced John Haine, General Manager of Cummins Sales and Service Headquarters on Buerkle Road in White Bear Lake, and one of the City's top employers. John Haine is General Manager at the Cummins sales and service headquarters for this region, located on Buerkle Road. Cummins is one of the City's top employers, with 200 employed at this site, and 1,200 Cummins employees in the Twin Cities, many of whom are at the Shoreview site. The City connected with Mr. Haine and his team through a Cummins initiative coordinated by Great Plains Institute. As part of Cummins' corporate commitment to volunteerism, employees are provided opportunities to volunteer. Recently employees voiced interest in broadening those opportunities to include work around sustainability and the environment. Cummins worked with Great Plains Institute to organize this first effort to partner with their local communities on a project of shared interest. It was decided by the Shoreview and WBL teams, in coordination with input from their respective cities, to assist with research related to EV charging stations.

Mr. Haine noted he and other volunteers at Cummins have been working for the past six months on the City's Banning and 3<sup>rd</sup> Street parking lot project slated for spring 2021 in an effort to add charging stations at this location. Mr. Haine explained the reason for Cummins involvement, as the company provides paid time to employees for participating in community projects that align with one of three factors: education, quality of opportunity and environment.

Mr. Haine presented reasons to consider electric vehicle charging stations, citing cleaner air, attraction of potential customers and the potential for charging revenue. He also pointed out that the City would become a destination for those needing to charge vehicles and benefit from a reputation of environmental conscientiousness. He noted that sales of electric vehicles is predicated to rise significantly and that those buying electric vehicles have more disposable income to spend at local businesses.

Mr. Haine explained that rather than making a recommendation for a specific type of charging station, Cummins came up with a list of questions to allow the City to assess the best charger for its needs and budget at the time of the project. Mr. Haine also presented an option for solar charging stations in the parking lot, in which a partnership with Century College students might provide an education and experience component installing solar panels.

Mr. Haine reviewed some Xcel solar program incentives to assist and pointed out an alignment with Green Step Cities best practices initiatives.

Mayor Emerson thanked Mr. Haine his work on this project as the City moves forward with ClimateSmart initiatives.

Councilmember Biehn stated he owns a Tesla and he does stop at locations that have chargers to shop. He supports this initiative in the downtown, which would need to figure a way to keep people from monopolizing the charge for 8 hours every day, especially as electric vehicles become more popular.

Councilmember Jones stated that he supports this initiative as well, but does not support preferential treatment for electric vehicles, noting Nicolet Mall.

In response to a question from Councilmember Walsh, Ms. Hiniker stated that staff would have further discussions with Council about options when planning for the parking lot improvements. Councilmember Walsh pointed out that the market will take care of providing the charging spaces to supply the need and the City should not need to provide them.

Councilmember Biehn stated that he wants that charging station to service the downtown in the City lot because other cities and other entities will have them and he does not wish to be left behind.

## 5. PUBLIC HEARINGS

Nothing scheduled

## 6. LAND USE

### A. Consent

1. Consideration of a request by Walser Polar Chevrolet for a one year time extension of approved Conditional Use Permit and Variances for 1801 County Road F. **Resolution No. 12529**

It was moved by Councilmember **Jones** seconded by Councilmember **Biehn**, to approve the Consent Agenda as presented.

Motion carried unanimously.

B. Non-Consent

1. Consideration of a Planning Commission recommendation regarding a request by Richard Herod III for a Conditional Use Permit and Variance (20-1-CUP and 20-1-V)

Community Development Director Kane noted the applicant, Richard Herod III had two land use requests for his home located at 4264 Cottage Park Road. He requested a conditional use permit for two additional curb cuts accessing Cottage Park Road, and, a two-foot variance from the four foot height limit for a fence abutting a right-of-way.

Ms. Kane stated the City is planning the reconstruction of Cottage Park Road this summer, which is why the applicant is proposing the two curb cuts now. She stated the Planning Commission found it reasonable to grant one ten foot wide curb cut on the vacant West parcel of the property, but not on the East parcel to service the backyard.

Regarding the fence, Ms. Kane explained, the applicant hired a contractor who installed the fence without pulling a permit from the City. Mr. Herod called the City to verify the permit, only to learn there was none. Ms. Kane stated, the City informed the contractor that a permit was needed at which time the proper documents were submitted, work resumed, but did not follow the City's approved plan. She reported the company instead installed the six-foot cedar fence right along the side yard abutting a right-of-way, and a variance is now being requested because the code requires the fence to be four feet in height or twelve feet from the property line.

Ms. Kane reported that staff and ultimately the Planning Commission did not support the variance for several reasons including past practice, hampered lake view, a poor precedent with non-permitted contractors and the fact that a fence to code would still allow for reasonable use of the applicant's land.

Ms. Kane reported that following the Public Hearing in which the applicant and three neighbors expressed their support for the variance, the Planning Commission forwarded for approval a CUP for one additional curb cut for the vacant parcel, denial of a second curb cut access the lot with the house, and denial of the fence height variance – deleting the requirement to remove the fence from the public right-of-way.

Mayor Emerson opened the public hearing at 7:58 p.m.

Richard Herod III of 4264 Cottage Park Road, the homeowner, stated he hired a contractor he thought would do the work correctly, but when he asked to see the permit, he called the City only to learn that a permit was not pulled. He explained that he tried to do everything right, including consulting his neighbors regarding the fence's height and location. Mr. Herod expressed concern over the Planning Commission's assertion that the property owner has a duty to provide a view to the lake for pedestrians and the precedent this sets. He noted there are plenty of public beaches and lake access for the public to enjoy and he pays a mortgage and taxes for the enjoyment of his property, not for others.

Mr. Herod explained the need for a 6-foot high fence stems from the desire to protect his French Bull Dogs from being taken. He stated that architecturally, moving the fence back

would not look good and he would lose 800 square feet of yard. He also stated that privacy is important and although Cottage Park is 20 mph, his other lot abuts White Bear Avenue, which has heavy high-speed traffic.

Melony and Daniel Emery, owners of 2143 and 2144 Lakeview Avenue, expressed concern over the Planning Commission's stance that this is a "Neighbors View Preservation District". She stated that the custom cedar fence will be expensive to relocate, or modify and in their dealings with contractors, this will not be easily corrected. She felt that Mr. Herod would have gone through the proper channels had he known a variance would be needed for the fence. She also thought it crazy to push the fence back 12 feet, thereby taking 816 square feet of yard, which is the foundation size of the median house. Mr. Emery added that the backyard is where people living on the lake spend time and entertain. Mr. Emery also felt like Mr. Herod is being punished for doing all the right things. Ms. Emery added there are other structures on this street that are closer to the road than this fence.

City Attorney Gilchrist added that the resolution for denial of this variance does not cite the view to the lake as a basis. Instead, he said, it is focused on the lack of practical difficulty, which is a statutory standard that must be met before the City can grant the variance.

Mayor Emerson closed the public hearing at 8:19 p.m.

Councilmember Walsh stated the code applies to the entire City and the variances that were granted in Cottage Park were done because the lot sizes are weird and irregularly shaped. He stated that this variance request does not meet the tests and if the owner had requested the variance first, it would not be granted because the yard is large enough to handle application of the City's code without a variance. Councilmember Walsh added that a public view of the lake is not a requirement.

Councilmember Biehn agreed with Councilmember Walsh, that this case does not meet the difficulties that other properties proved. While he understands the conundrum and he sympathizes, he cannot grant this variance. He hoped the contractor will correct this for the applicant.

It was moved by Councilmember **Walsh** seconded by Councilmember **Jones**, to approve **Resolution No. 12530** granting one conditional use permit and denying one conditional use permit both at 4264 Cottage Park Road.

Motion carried unanimously.

It was moved by Councilmember **Walsh** seconded by Councilmember **Biehn**, to approve **Resolution No. 12531** denying a fence variance for 4264 Cottage Park Road.

Motion carried 3:2. Councilmember Jones and Engstran nay.

2. Consideration of a Planning Commission recommendation regarding a request by Twin Cities Petroleum for two variances (20-2-V)

Community Development Director Kane stated the property is located at 2490 County Road

F on the southwest corner of County F and Bellaire Avenue. She reported the property owner would like to install a pricing sign, however, the City's sign code does not allow digital signs on walls or canopies of buildings, and therefore the only option is a freestanding sign. Ms. Kane stated the property is small with only a small triangular piece of greenspace in the northeast corner of the site. Ms. Kane reported that a 10 foot setback from both property lines, leaves only about 2 square feet in which to construct a sign, therefore a true practical difficulty exists.

Ms. Kane explained the property owner is requesting a 3'8" variance form the 10 foot setback requirement along the north property line (a 36% variance) and a 4'5" variance form the 10 foot setback requirement along the east property line (a 44% variance), in order to locate a freestanding monument. She noted the applicant designed the sign to be narrow so as to both reduce the amount of variance being requested and to preserve as much visibility as possible at the intersection. Ms. Kane stated the required visibility triangles at the intersection would not be impacted by the proposed sign.

Ms. Kane reported that during the Planning Commission public hearing, a neighbor expressed concern with lighting and noise from commercials playing at the pumps. She stated the property owner lowered the sound to a conversational level and modified the design of the monument sign such that only the price would be illuminated. With these modifications, Ms. Kane forwarded a Planning Commission recommendation for these variances related to the placement of a monument sign.

Mayor Emerson opened the public hearing at 8:22 p.m. There being no public comment, Mayor Emerson closed the public hearing.

It was moved by Councilmember **Biehn** seconded by Councilmember **Walsh**, to approve **Resolution No. 12532** granting two setback variance for 2490 County Road F, East.

Motion carried unanimously.

## 7. UNFINISHED BUSINESS

Nothing scheduled

## 8. ORDINANCES

Nothing scheduled

## 9. NEW BUSINESS

- A. Resolution approving Community Development Grant Funding for Pioneer Manor window replacement project

Community Development Director Kane reported that at the January 21, 2020 Ramsey County Housing and Redevelopment Authority Meeting, an amendment to the County's CDBG funding planned was approved which included a \$450,000 allocation for the Pioneer Manor Window Replacement Project. Ms. Kane asked for approval to accept CDBG funding for this project.

In response to Councilmember Biehn, Ms. Kane confirmed this award does cover the entire cost of the window replacement project at Pioneer Manor.

It was moved by Councilmember **Biehn** seconded by Councilmember **Jones**, to approve **Resolution No. 12533** authorizing the use of Community Development Block Grant Funds for a window replacement and adjacent exterior paneling and trim replacement project at Pioneer Manor.

Motion carried unanimously.

B. Resolution awarding Pioneer Manor window replacement project

Community Development Director Kane reported that staff received only one bid for the window replacement project at Pioneer Manor. Staff reviewed the bid with the potential project manager for this work to confirm the level of detail was thorough enough to meet a compressed timeline for this project. As a result, Ms. Kane forwarded a recommendation to adopt the resolution authorizing acceptance of the bid from Intelligent Design including panel and trim replacement and authorizing a contract for ancillary services to facilitate the successful completion of the project including wage compliance and project management services.

Councilmember Walsh pointed out the absurd Federal Government requirement for the City to come up with a regional wage limit for this project, which is so complicated it requires a wage consultant for management and compliance.

It was moved by Councilmember **Walsh** seconded by Councilmember **Engstran**, to approve **Resolution No. 12534** awarding Pioneer Manor window replacement project.

Motion carried unanimously.

C. Resolution affirming the Ramsey Washington Suburban Cable Commission's determination that preliminary assessment of the Comcast franchise should not be renewed

City Manager Hiniker provided a brief history of Ramsey Washington Counties Suburban Cable Communications Commission (RWSCC) and the franchise renewal process since 2017. Ms. Hiniker stated that after providing Comcast with two extensions to the current franchise with still no agreement, RWSCC initiated the formal renewal process last fall. In response, she said, Comcast submitted a franchise proposal, which was reviewed by RWSCC under the guidance of the federal Cable Act. The RWSCC's preliminary assessment led to non-renewal of the proposal and if supported by participating cities, moves franchise discussions onto the next hearing phase in accordance with the Federal Cable Act. Ms. Hiniker added this is not a final decision by the Council, rather this decision supports a continuation of the formal process.

Ms. Hiniker highlighted grounds for RWSCC's recommendation for non-renewal based on loss of PEG fee programming, but also in their findings that Comcast did not reasonably satisfy matters relating to customer service and billing, the I-NET, extension of service to unserved areas, upgrade of the system and system maintenance. Ms. Hiniker referenced Council's receipt of two letters, one from Comcast disputing RWSCC's findings and one from RWSCC's attorney

countering the claims put forth by Comcast. Ms. Hiniker expressed preference that the role of adjudicating these conflicting claims fall to a qualified hearing judge familiar with this specialized field of law.

The City Council sought clarification from RWSCC's Executive Director, Tim Finnerty and also heard from Ron Orlando, Vice President External Affairs with Comcast.

Councilmembers Walsh expressed his interest in reviewing the service model, noting the change in technology and declining reliance on cable. Ms. Hiniker agreed that this would need to be a conversation among the RWSCC members and that a new model may further reduce reliance on PEG fees. Meanwhile, she expressed the importance of seeing the franchise negotiations to provide a strong base from which to work.

It was moved by Councilmember **Biehn** seconded by Councilmember **Jones**, to approve **Resolution No. 12535** affirming the Ramsey Washington Suburban Cable Commission's determination that preliminary assessment of the Comcast franchise should not be renewed

Motion carried 4:1. Councilmember Walsh nay.

D. Resolution extending the current Comcast Franchise Agreement

City Manager Hiniker stated this action would allow the Comcast franchise agreement to extend to March 31, 2020. She said that until negotiations are settled, it is in the best interest of the City's to extend the current franchise.

It was moved by Councilmember **Walsh** seconded by Councilmember **Edberg**, to approve **Resolution No. 12536** extending the current Comcast Franchise Agreement

E. Resolution accepting bids and awarding contract for the Centerville Water Tower Reconditioning, City Project No. 19-20

City Engineer Kauppi reported the City received favorable bids for the Water Tower Reconditioning Project, which was estimated to cost \$1.2 million. He said, in addition to the base bid, which includes sandblasting, repainting and logo replacement, there were two bid alternates under consideration. He stated bid alternate A added a three year warranty and alternate B was for an alternate logo and paint scheme. Mr. Kauppi forwarded staff's recommendation to award the base bid \$837,650 and alternate B for the logo and paint scheme at \$16,700 to Classic Protective Coatings, Inc.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Biehn** to adopt **Resolution No. 12537** accepting the bids and awarding contract for the Centerville Water Tower Reconditioning, City Project No. 19-20.

Motion carried unanimously.

F. Resolution authorizing a rental agreement with Comcast



City Manager Hiniker reported that Comcast is a tenant of the City's Bellaire Center. She stated Comcast would like to renegotiate the terms of the rental agreement, but the City has taken the position that negotiation would happen after the franchise agreement is settled. She forwarded a recommendation to continue the same terms and rates of the existing rental agreement through the franchise, or through February 28, 2021, whichever comes first.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones** to adopt **Resolution No. 12538** authorizing a rental agreement with Comcast.

Motion carried unanimously.

## 10. CONSENT

- A. Acceptance of Minutes: November and December Environmental Advisory Commission, November Park Advisory Commission, January Planning Commission
- B. Resolution authorizing the use of Memorial Beach for non-exclusive, for-profit events.  
**Resolution No. 12539**

It was moved by Councilmember **Biehn**, seconded by Councilmember **Jones** to approve the Consent agenda as presented.

Motion carried unanimously.

## 11. DISCUSSION

Nothing scheduled


## 12. COMMUNICATIONS FROM THE CITY MANAGER

- Work Session at 6:00 p.m. on Tuesday, February 18, 2020
- Recommendation for title transfer of a garage to the White Bear Area School District
- Councilmember Engstran mentioned the new organics dumpster needs to be lighted at night.

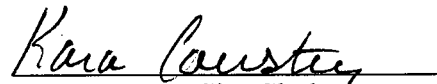
## 13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Edberg** seconded by Councilmember **Engstran** to adjourn the regular meeting at **9:22** p.m.

Motion carried unanimously.

  
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Jo Emerson, Mayor

ATTEST:

  
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Kara Coustry, City Clerk