



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MAY 11, 2021
7:00 P.M. VIA ZOOM OR TELEPHONE**

1. CALL TO ORDER AND ROLL CALL

Mayor Jo Emerson called the meeting to order at 7:00 p.m. under MN Statute Section 13D.021, in which the City Council will be conducting its meetings during this emergency by electronic means until further notice. The clerk took roll call attendance for Councilmembers: Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones and Bill Walsh. Staff in attendance were City Manager Ellen Hiniker, Public Works Director/City Engineer Paul Kauppi, Finance Director Kerri Kindsvater, Community Development Director Anne Kane, City Clerk Kara Coustry and City Attorney Troy Gilchrist.

2. APPROVAL OF MINUTES

A. Minutes of the Regular City Council Meeting on April 27, 2021

It was moved by Councilmember **Jones** seconded by Councilmember **Edberg**, to approve the Minutes of the April 27, 2021 as presented.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

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

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

A. Shallow Lakes and Alum – Joe Bischoff and Greg Wilson, Barr Engineering

Phil Belfiori, Administrator for Vadnais Lake Area Watershed Management Organization

(VLAWMO), introduced Joe Bischoff, Senior Aquatic Ecologist with Barr Engineering, who gave a brief technical background presentation on the science of shallow lake management. The presentation specifically focused on alum treatments in lakes with high internal loading such as East Goose Lake. Mr. Belfiori explained that this presentation provided background information to the Council as part of the ongoing East Goose Lake Adaptive Management partnership with the City and was a follow-up to a presentation provided on October 13, 2020. Another presentation about the science behind aquatic vegetation in shallow lakes will be provided during the May 25, 2021, City Council meeting.

Joe Bischoff then provided his presentation focusing on: providing information on shallow lake ecology and management, background on sediment-phosphorus release in shallow lakes, and alum as a management tool in shallow lakes.

Councilmember Edberg asked whether this presentation had been shared with East Goose Lake residents and the community, noting past concern with restricted motorized boating after alum treatment. In response, Mr. Belfiori provided a summary of the East Goose ALM public engagement process to date including the December 1, 2020, neighborhood meeting, follow-up hard-copy survey mailed to lakeshore owners, and a postcard mailed to the lakeshore owners notifying them of the upcoming community input meeting anticipated to be scheduled for later in the summer. He noted that the much of the information contained in these May presentations will be summarized at the community input meeting. He noted that the presentation on May 11 and the presentation scheduled at the May 25th Council meeting are meant to provide background scientific information and are for informational purposes only.

Mr. Bischoff clarified that alum dosing will bind the phosphorus in sediments, making them unavailable for resuspension and potential algae growth, even with boat traffic. He stated that boats could still operate under an alum dosing management plan, with increased dosing to accommodate expected boat-caused sediment resuspension. He explained that, as plants begin to establish, the need for continued dosing may decline.

In response to Councilmember Jones's inquiry about alternatives, Mr. Bischoff mentioned that aeration provides sufficient oxygen to disrupt algae growth, but it can be expensive and require ongoing maintenance compared to alum. Cleaning up external loading of watershed containing phosphorus is another option but is costly. Because the internal load in East Goose Lake is so high, flushing the accumulated phosphorus to result in a clean lake following external load elimination would take centuries. Mr. Belfiori added the cost of cleaning watersheds would be less effective in terms of dollars per pound of phosphorus than alum treatments.

City Manager Hiniker explained that, at the next City Council meeting, the Council will hear more about the science behind aquatic vegetation management in shallow lakes.

5. PUBLIC HEARINGS

Nothing scheduled

6. LAND USE

A. Consent

1. Consideration of a Planning Commission recommendation for approval of a request by the Patty Flanagan for a variance at 3562 Highland Avenue. (Case No. 21-8-V). **Resolution No 12770**

2. Consideration of a Planning Commission recommendation for approval of a request by James Mattson for a variance at 3444 White Bear Avenue. (Case No. 21-9-V). **Resolution No 12771**
3. Consideration of a Planning Commission recommendation for approval of a request by Matthew and Andrea Hare and Jacqueline Mager for a recombination subdivision at 3465 White Bear Avenue and 1996 Elm Street. (Case No. 21-1-LS). **Resolution No 12772**

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

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

B. Non-Consent

1. Consideration of a Planning Commission recommendation for denial of a request by Bree LLC for a variance at 4701 Banning Avenue. (Case No. 21-7-V)

Community Development Director Kane reported 4701 Banning Avenue contains an office use and a pilates studio, however, due to COVID-19, the pilates studio needed to downsize and the new landlord signed a lease with a real estate firm to fill the space. Unbeknownst to the parties involved, City code limits the amount of office space in any one building to 30% or less of the gross floor area or linear frontage. As a result, Ms. Kane explained, the applicant is requesting a variance to increase the amount of ground floor office use to 64.7% gross square feet and increase the amount of lineal street frontage to 51.5%, in order to allow a realtor's office. Of note, the current use of this location is already non-compliant with 40.76% as office space.

Ms. Kane reported findings that there was no practical difficulty proved, this variance would apply a long term solution to a short term issue, and it is contrary to the intent of the zoning code, which is to sustain the economic vitality of the downtown area achieved through more frequent foot traffic to retail tenants. Ms. Kane reported that one downtown business owner opposed the variance stating that 30% is adequate for non-retail and neighboring residents expressed concerned with spill over parking into the neighborhood.

Ms. Kane forwarded a Planning Commission recommendation to deny the variance, but approve the existing condition of the building, which required a variance to allow 40.76% office space.

Mayor Emerson opened the public hearing at 7:35 p.m.

Applicants/owners of 4701 Banning Avenue, Christian Peterson (wife Gretchen attending) of Everton Circle North Street in Hugo conveyed respect for the process and explained their desire to work with the pilates tenant in an effort to avoid another fully lost business.

In support of the variance request, Mr. Peterson quoted City code in which, “variances are acceptable and permitted, at least to be considered, if there is a difficulty caused by public action..., or other exceptional physical conditions” – the pandemic being prevalent as an exceptional physical condition.

Mr. Peterson also asked for approval of the 40.76% variance to support the existing use, and while respecting the Planning Commission decision, asked the Council to consider an interim use permit allowing for 24 months of conditional use for purposes of permitting the real estate office tenant. He explained this would provide flexibility to the City during a rebound period. Mr. Peterson stated that being located on the outer parameters of downtown lessens the influence to foot traffic, and added that the space is fully functional with sprinkler systems.

Jamie Ogden of 5457 Franklin Avenue, (real estate owner/business partner Ryan Schreier attending), referenced past investments into downtown White Bear Lake and conveyed their desire to contribute to the shared goal of a vibrant downtown. An example of bringing excitement downtown will be charity events such as an autograph session with professional athletes to raise money.

Associate Broker at Realty One Group Vertical, Broker Kate Johnson explained that she started a business with her husband called, K-2 Homes with Heart, but was just moving in when the pandemic hit. She mentioned her brother is a small business owner downtown and she described past events she has organized in support of local White Bear Lake businesses and charities. She discussed charity work and later added the location is a drop-off and volunteer site for donations for the Safe Haven Foster Shop non-profit.

Mayor Emerson closed the public hearing at 7:46 p.m.

Councilmember Biehn inquired as the Council’s ability to provide a 24-month interim use permit. While interim use permits are an option provided in the State code, City Attorney Troy Gilchrist relayed that a text amendment to the City code be used to provide an interim use permit, which would allow the space to convert back into retail upon a certain event or date.

Through lengthy conversation, Councilmembers landed on a desire to find an interim solution capped at two years with time served. City Attorney Gilchrist added that under pandemic regulatory flexibility, and if Council agrees, the text amendment process could follow while allowing the business to continue operating.

Councilmember Walsh indicated a desire to account for the months that the realty business has already occupied that space when considering a future interim use.

Staff was directed to work with the applicants to follow through with a text amendment allowing for the issuance of interim use permits.

It was moved by Councilmember **Edberg** seconded by Councilmember **Walsh**, to approve **Resolution No. 12773** denial of a request by Bree LLC for a variance at 4701 Banning Avenue.

Biehn Aye
Edberg Aye

Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

It was moved by Councilmember **Biehn** seconded by Councilmember **Jones**, to approve **Resolution No. 12774** a request by Bree LLC for a variance at 4701 Banning Avenue.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

2. Consideration of a Planning Commission recommendation for approval of a request by the 3881 Property Group for a Conditional Use Permit at 3881 Highland Avenue (Case No. 21-5-CUP)

Community Development Director Kane explained the applicant has requested a Conditional Use Permit to convert an existing two-story office building into a 16-24 bed nursing home. She explained the site has only four (4) parking spaces, and because the Code requires 12 parking stalls, this approval would also require leased use of the Stellmacher Park parking lot adjacent to the property.

Ms. Kane described the plan for approximately six (6) regular staff to park in the leased Stellmacher lot, leaving four (4) on-site stalls available for visitors. Approximately 6 staff are anticipated on a regular basis with potential for a few more visitors on weekends and holidays. The city lot has 20 stalls plenty of room to accommodate the proposed lease and still have room for the general public.

Ms. Kane added that the driveway and trash enclosure encroaches slightly into the park property, also noted in the conditional use. She reported, there was no opposition to the request during the public hearing, and forwarded the Planning Commission's unanimous recommendation to approve the Conditional Use Permit noting approval is conditioned upon approval a lease of Stellmacher parking lot, item 9A.

It was moved by Councilmember **Biehn** seconded by Councilmember **Jones**, to approve **Resolution No. 12775** a request by Bree LLC for a variance at 4701 Banning Avenue.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

7. UNFINISHED BUSINESS

A. Resolution reaffirming 2021 bond sale amount and changing date for consideration of proposals

Finance Director Kindsvater reported pushing back the bond sale to May 25 in order to clarify questions surrounding the amount of the bond and its use. She explained that bonds must be spent on qualifying expenditures within 24 months of the sale. She mentioned modifying bond documents by adding that in addition to water meter replacements, “other water system improvements” would qualify. This, she explained, allows flexibility to expense bond proceeds on other water infrastructure improvements, such as what is called out in the Capital Improvement Plan (CIP).

City Manager Hiniker highlighted she felt it important to clarify Council’s options once bonds have gone to market. Contrary to what was reported at the previous meeting as Council deliberated its decision, Council cannot reduce the bond amount after it is marketed for public sale.

Councilmember Edberg wanted it noted that, contrary to a resolution passed by Council in April to affirm the bond sale, staff initiated this action to reconsider. He understood why staff took this action, but he did not agree with the action.

In response to Councilmember Walsh about other water system improvements in the CIP, Finance Director Kindsvater listed the filter room rehabilitation, fencing and security access items, back-up generators for the facility and for two wells, in addition to the water plant slaker. She said the City is working with a company and expects to have professional recommendations after review of the water treatment plant, which could further impact that list.

It was moved by Councilmember **Jones** seconded by Councilmember **Engstran**, to approve **Resolution No. 12776** reaffirming 2021 bond sale amount and changing date for consideration of proposals.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

8. ORDINANCES

Nothing scheduled

9. NEW BUSINESS

A. Resolution authorizing Mayor and City Manager to execute Stellmacher Park parking lot Lease Agreement for 3881 Property Group

Community Development Director Kane reported that as a condition to the nursing home variance presented under the Land Use Agenda, this item is to approve a parking lot lease

agreement at Stellmacher Park in order to satisfy the minimum 12 stall parking required in City code. She reported a lease term of ten (10) years at \$1.00/year with a 60-day cancellation clause, similar to other parking lot lease agreements, and pointed to the public benefit of parking lot maintenance and repair being completed by the business.

It was moved by Councilmember **Edberg** seconded by Councilmember **Jones**, to adopt **Resolution No. 12777** authorizing Mayor and City Manager to execute Stellmacher Park Parking Lot Lease Agreement for 3881 Property Group.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

B. Resolution approving amendments to the Traffic Control Policy

With the desire to address numerous complaints regarding traffic and pedestrian safety, Public Works Director / City Engineer presented a recommendation to amend Traffic Control Policy 5.08 with guidelines for use of in-street pedestrian crossing signs and radar speed signs. He explained that pedestrian crossing signs are intended for high volume areas, such as at Cup N Cone. Mr. Kauppi explained that the City's two flashing speed signs would be placed in opposite directions on a single road identified on the list and which qualify from new speed counting equipment.

Councilmember Jones relayed complaints from residents in locations, especially on long open stretches of road, and was a proponent of the investment into the equipment which will provide even more data about traffic speeds and help remind public to slow down.

It was moved by Councilmember **Jones** seconded by Councilmember **Biehn**, to adopt **Resolution No. 12778** approving amendments the Traffic Control Policy.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

10. CONSENT

- A. Resolution authorizing continued Joint Cooperative Agreement in the Ramsey County CDBG & HOME Programs. **Resolution No. 12779**
- B. Resolution accepting bids and awarding contract for the 2021 bituminous seal coating project, City Project No. 21-02. **Resolution No. 12780**

- C. Resolution authorizing grant agreement with Rice Creek Watershed District for Matoska Park shoreline repair. **Resolution No. 12781**
- D. Resolution authorizing grant agreement with Rice Creek Watershed District for the Matoska Park parking lot stormwater treatment structures. **Resolution No. 12782**
- E. Acceptance of Minutes: March Park Advisory Commission, March Environmental Advisory Commission, April Planning Advisory Commission
- F. Resolution authorizing use of Railroad Park. **Resolution No. 12783**

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

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye

Motion carried unanimously.

11. DISCUSSION

Nothing scheduled

12. COMMUNICATIONS FROM THE CITY MANAGER

- Work Session announced for Tuesday, May 18 at 6:00 p.m. to review the City's Long Range Financial Management Plan and its Capital Improvement Plan, along with information on the newly released American Rescue Plan.
- Filings will be open Tuesday, May 18 through Tuesday, June 1 for the positions of Mayor, Ward 2 and Ward 4, the notice of which was provided in the Spring City Newsletter and in the White Bear Press (April 28, 2021).
- Assistant City Manager Rick Juba will manage the next City Council meeting in the City's Manager's absence.
- City Engineer / Public Works Director Paul Kauppi
 - Annual hydrant flushing is underway this week and water may be tinged in color as a result. Going North to South.
 - The Matoska Dog Beach shoreline restoration is complete, however, traffic should be avoided until new grass germinates.
- Community Development Director Anne Kane
 - The second Housing Task Force Committee meeting and the first community forum will be held on the evening of Thursday, June 10.

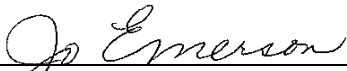
13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Jones** seconded by Councilmember **Walsh** to adjourn the regular meeting at 8:44 p.m.

Biehn Aye
Edberg Aye
Engstran Aye
Jones Aye
Walsh Aye


Edberg reaffirmed Aye.

Motion carried unanimously.



Jo Emerson, Mayor

ATTEST:



Kara Coustry, City Clerk