



**MINUTES  
REGULAR MEETING OF THE CITY COUNCIL  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
TUESDAY, NOVEMBER 9, 2021  
7:00 P.M. IN THE COUNCIL CHAMBERS**

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

Mayor Jo Emerson called the meeting to order at 7:00 p.m. The clerk took attendance for Councilmembers Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones and Bill Walsh. Staff in attendance were City Manager Ellen Hiniker, Community Development Director Anne Kane, Public Works Director/City Engineer Paul Kauppi, Finance Director Kerri Kindsvater, City Clerk Kara Coustry and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIENCE

**2. APPROVAL OF MINUTES**

A. Minutes of the Regular City Council Meeting on October 26, 2021

It was moved by Councilmember **Edberg** seconded by Councilmember **Jones**, to approve the Minutes of the October 26, 2021 City Council meeting as presented.

Motion carried unanimously.

**3. APPROVAL OF THE AGENDA**

City Manager Hiniker added 9F rescheduling the public hearing for the bond issue.

It was moved by Councilmember **Biehn** seconded by Councilmember **Edberg**, to approve the Agenda as amended.

Motion carried unanimously.

**4. VISITORS AND PRESENTATIONS**

A. Climate Smart Municipalities

Sam Crosby and Tracy Shimek gave a presentation on takeaways from a recent Climate Smart exchange in Germany, made possible by a grant from the Federal Republic of Germany and through a partnership with the University of Minnesota. The City of White Bear Lake is fortunate to be one of six Minnesota cities participating in the Climate Smart Municipalities (CSM) international exchange program.

To date, the program has provided the opportunity to make connections, not only with our partner city Lüdenscheid, but with other participating municipalities, various regional and state agencies and even private companies. The goal of the program is the exchange of ideas and to partner on local actions in support of the global energy transition.

The informal theme of this year's exchange was not of the cost of action, rather it was the greater cost of inaction. Further shared by Ms. Shimek and Ms. Crosby, we all bear the cost of mitigating and recovering from natural disasters as evidenced in insurance rate hikes and rising energy costs. Analysis has shown that clean energy brings high paying jobs to Minnesota communities. Many major companies are already pivoting towards decarbonization, such as Ford Motor Co. making an \$11 billion dollar investment in electric vehicle production and refurbishment/recycling methods for the batteries in an effort to put itself at the center of the electric vehicle revolution. A decarbonized economy is recognized as the path forward by sizeable numbers of both consumers and leaders of industry.

The City has conducted an energy audit of all the municipal buildings and have entered into a contract to execute some improvements. The City has also begun to purchase hybrid vehicles in various departments such as building, fire and police. In conjunction with Ramsey County, a food scrap dumpster was installed at the Public Works facility. Our many outreach efforts include the solar power hour, the newsletter's sustainability features, and the Environmental Resource Expo during the last week of Marketfest. We have been participating in Arbor Day for over 30 years and are working to complete Green Step level 5.

Both Ms. Shimek and Ms. Crosby expressed gratitude for opportunity to participate in this year's CSM Exchange. They highlighted four ways for the City to create external change:

1. Regulation and Policy
2. Education (how to reduce impact, cost savings, impact of climate change, etc)
3. Incentivizing activities that reduce energy and carbon usage
4. Partner & Influence – working both cross sector with businesses, education institutions, non-profits and community members and working with other gov't bodies, from other localities to higher level of governments

In early 2020, the City Council approved a Level One Action Plan with broad objectives for sustainability. The CSM Steering Committee, which is comprised of representatives from local businesses, education and non-profit sectors, will soon be re-convening to continue drafting a more detailed climate action plan. Future potential actions could include:

- Continue working with the businesses we have forged relationships with on the CSM Steering Committee, and broadening those cross sector relationships through our involvement with the Chamber and other business organizations.
- Use energy reduction projects as examples for businesses, residents and other property owners in the community.
- Use the cost savings from energy efficiency projects to fund additional projects that reduce our climate impact and to create incentives for businesses and residents to invest in energy reduction technologies.
- Review land use and building codes to find opportunities to improve sustainability measures in local development and the built environment.
- Evaluate policies, programs and projects from the perspective of their impact on climate change and mitigate those impacts.

## 5. PUBLIC HEARINGS

### A. Public Hearing in consideration of a proposed Right-of-Way Vacation

Community Development Director Kane reported that the current county records reflect a recording error as a result of two resolutions that were presented to the City Council in 1977. The first resolution, "Vacation A", was to vacate the 5<sup>th</sup> Avenue right-of-way between the south side of Highway 96 and the north side of Clarence. The second resolution, "Vacation B", was to vacate the 5<sup>th</sup> Avenue right-of-way between the north side of Clarence and the north side of Whitaker Street. Vacation A was approved by the City Council, but Vacation B was not approved by the City Council, however, both resolutions were filed with the County. Ms. Kane explained that the error was realized fairly quickly and an affidavit was recorded to nullify and revoke the misfiled resolution for Vacation B.

Ms. Kane relayed that city and county maps over the years reflected the 5<sup>th</sup> Avenue right-of-way up until at least 2014. Staff estimated that sometime between 2014 and 2017 the error was somehow "recreated" by the County and the County's data has been incorrect ever since.

Ms. Kane explained that City staff is proposing to help correct this issue by asking the City Council to re-affirm the denial of the 1977 Vacation B, but simultaneously approve a new three-part Vacation of 5<sup>th</sup> Avenue from the south of Clarence to the north of Park, from the south of Park to the north of Hinckley, and from the south of Hinckley to the north of Whitaker. She said, this would leave the directly adjacent neighbors the land that they have believed was theirs for the past 7 years or so, and would also provide the public road access to the Tice parcel that is desired for a logical layout and site development.

Mayor Emerson opened the public hearing at 7:33 p.m.

Nicole Samida covered the timeline of events in which on June 14, 1977 the request to vacate A and B were considered, A was passed, but B was not passed citing the abutting property owners had not signed the petition required by the ordinance. Ms. Samida presented a petition of all of the abutting owners and others in the neighborhood as of today, and asked what would have happened if this petition had been presented in 1977. She said the initial intent of vacation B was found to be in the public interest as it provided naturally occurring habitat.

Fast forward to June 14, 2021 in which Rose Tice passed away and now the Tice family desires to develop this land. Ms. Samida said the City appears to be pushing for this development, and she relayed comments in which the Planning Commission said the proposal is overbuilt and does not fit the neighborhood. She also expressed her concern that the City had a conflict of interest, referencing a conversation she overheard with Tice Construction making plans with a city official for coffee the next day and, meanwhile that same day, Tice Construction posting the City's signs for this meeting.

Patrick Kenny of 1800 Park Street held up his 1994 property title which clearly shows that the County recognizes a vacation of 5<sup>th</sup> Street.

Paul Rhode a 44-year resident of 1823 Park Street explained that they received a letter from the City that notified them of the vacation, which they filed with Ramsey County and paid the necessary fees and taxes. He explained that they have been paying property taxes on this land since 1977 and he asked how the City can just take something back that they sold. He explained

that this land is not land-locked as the Township's Dillon Street could be put through and provide access. He mentioned Ramsey County needs access to work on the holding pond, but said they have never been stopped from working on the pond. Mr. Rhode explained that once they dumped a pile of rocks, which the City plows hit, then never returned to plow the area the rest of that winter. Mr. Rhode said the County and the Town of White Bear could connect Dillon Street two blocks, which would provide more parking for the park, whose attendees are parking in their neighborhoods which makes it impossible for an emergency vehicle to access.

Karin Doyle of 1801 Clarence Street works as a St. Paul Firefighter who bought her home because it was advertised as at the end of a dead-end street and in a quiet area. She trusted the title, the land survey, the inspector, the lot lines and the purchase price and does not feel it is fair to take property that these residents believed to be their own. She built a shed at which time the City's inspector walked the property lines and was reported to have told her, make sure you know you own this section in case the City ever tries to come through here. Ms. Doyle said that same inspector printed materials from the City and County showing the property lines and dimensions.

Ms. Doyle did not believe it fair for the City to take back this land after a 44-year error and she was not kept in the loop by City staff throughout this process as she had been told. Now she has had to spend time and money for an attorney to deal with this issue. She pointed to what she believed to be as several inaccuracies in paperwork submitted by staff. She did not approve of the proposed development for a variety of reasons and reported being laughed at by City staff when relaying that one of the Tice brothers told her to sell now before her property value falls. She said the Planning Commission mentioned issues with an old dump underground as well as issues with water, and the development not fitting the neighborhood.

Melinda Monigold has lived 1819 Park Street for 32 years – a quiet, dead end street with abundant wildlife. She said there are issues with an underground dump and soggy land, which would make building a road difficult. She reported that the only entrance to this neighborhood is through Clarence Street as Ramsey County would not approve an entrance from Highway 96. She explained the roads are narrow, with many children in the area. She reported abysmal plowing in the area, if at all. She wanted to know what changed in 44 years that this land should be an issue today.

Nathan Friend of 1815 Clarence had a survey done in which the surveyor charged extra for the time it took to locate his property pins. He said the City's own surveyor with an apprentice reportedly said, "there's something weird down there", with regard to the property pins. Pointing to Ramsey County as the City's mother, he said they indicate the property was vacated, so the City should follow that lead. He added that the narrow streets cannot handle the extra homes and he questioned whether other utilities could support a new development.

There being no other public comment, Mayor Emerson closed the public hearing at 8:13 p.m.

Councilmember Walsh stated that in following the paperwork, as far as the City is concerned, we have treated this property as the City's all these years with utilities and a fire hydrant added. He asked if there has been any response from the County. Ms. Kane relayed they have been in conversation with the County surveyor who told the City it did not have to rely on this mapping error. Councilmember Walsh added that these property owners have been harmed as they have relied on that error for many years.

City Engineer Kauppi explained that from a practical matter a road cannot be placed in Dillon's Ditch. He explained that Dillon Ditch serves as a major drainage-way that runs throughout the City and this area holds a drainage facility in which the Township has right-of-way and the City holds an easement. Ms. Kane added that in 1978 the City obtained this 33-foot easement in order to install storm sewer from which to drain Dillon's Ditch through the Tice parcel, as well as sanitary sewer and water through the property in order to serve the Clarence Street neighborhood.

To answer why now, Councilmember Jones reminded folks that once a developer presents a proposal, the City has to react within a certain period of time and he explained that the City and its staff are not paid any commissions for developments. These properties were platted many years ago, which explains why the pins are difficult to find. He said, we need to fix this situation with the County, and that fix is not dependent on future development. From the point of view of representing other residents of the City, he explained his role is to fight for what is the City's property.

Councilmember Biehn listed a series of questions:

- Did these owners actually pay for the property?
- How was the error rediscovered?
- Is there a legal responsibility to not remove access (is there a penalty)?
- When were the utilities installed?
- Is the property zoned for this development?
- Does the County have any legal liability?

Councilmember Edberg inquired as to the City's timeline and he did not wish for this to be settled by inaction of the City. City Attorney Gilchrist covered two items occurring right now, the vacation and the development. There is a 60-day clock on the development piece which has been extended to January, however, since the vacation affects access and land, he urged the City to act on this piece within the same period of time. City Attorney Gilchrist said his office has researched each of the titles in this case and he hopes to summarize and provide additional information to Council in time for the December meeting. He asked Council to keep in mind that it is clear the City recorded the wrong information in 1977, which was quickly corrected. Noting that all of these titles revealed both the vacation and the affidavit, he relayed his position is that you cannot rely on one document and not the other.

Mayor Emerson thanked the property owners for their comments and explained that Council will need more time to review and consider the options, which will be discussed further at the December meeting.

## 6. LAND USE

### A. Non-Consent

Nothing scheduled.

### B. Consent

1. Consideration of a Planning Commission recommendation for approval of a request by Brian Cox for a setback variance at 2323 Lakeridge Avenue (Case No. 21-19-V). **Resolution No. 12875**

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

## 7. UNFINISHED BUSINESS

Nothing scheduled

## 8. ORDINANCES

### A. First Reading of an Ordinance to amend the Sign Code to allow billboards. (Case No. 21-2-Z)

Ms. Kane said this request was initiated by an application from Division 25, LLC, the developer of the Lande property. She explained this application seeks to amend the sign code to re-establish the City's 2007 regulations for static and dynamic billboards. The Planning Commission studied this over the summer, identifying billboards in close proximity to the City, and forward their recommendation for a text amendment to allow Billboards, including Dynamic Billboards, in Commercial, Industrials and Public zoning districts.

Ms. Kane provided a chart comparing 2007 regulations to the applicant's proposed regulations and ultimately those of the Planning Commission. She highlighted staff's inclusion of Public zoning districts as a possibility for future consideration as a revenue generator. The original 20-minute message hold time was debated, but was ultimately found through other area studies that an 8-second message hold time was found not distracting to motorists.

Mayor Emerson mentioned second reading will occur on December 14, 2021.

### B. First reading of an Ordinance setting the 2022 Fee Schedule

City Manager Hiniker presented the proposed 2022 Fee Schedule and highlighted the increases including a 3% increase in ambulance fees; 4% increase in rental fees at Pioneer Manor in order to cover operational and management fees; an increase in non-resident fees for outdoor recreation activities; a quarterly fee for commercial meter replacements; sewer rate increase of 3%; \$2.00 per quarter increase to stormwater management infrastructure fee.

Councilmember Walsh highlighted that some fees also went down.

Councilmember Edberg pointed out five things about how the City manages its finances:

- 1) Not all fees go up every year. Some have maintained over several years.
- 2) When fees are increased, it is based on a financial analysis. Sometimes fees go down when efficiencies are realized, or are eliminated altogether
- 3) When possible preferential treatment is provided to residents, over non-residents.
- 4) New fee categories are addressing needs, and our City is the last one to the table.

Councilmember Walsh added, if it seems like the Council is not engaged in much discussion, that's because much of the discussion occurs in Work Sessions. He pointed to the newer stormwater management infrastructure fee and referenced a lot of debate by Council and research by staff went into the creation of that fee.

As one example, Ms. Hiniker added, the City had to initiate a recycling fee surcharge when markets took a downturn. Now that the recycling market has rebounded, the City will be removing the recycling surcharge next year. She explained that as recycling becomes more

lucrative, that will allow the City to adjust down further its fees for refuse and recycling collection. She stated that the City looks at each and every fee as it impacts operations and adjusts up or down as needed.

Mayor Emerson mentioned second reading will occur on December 14, 2021.

## 9. NEW BUSINESS

### A. Resolution canvassing municipal election results

City Manager Hiniker referenced the official abstract results provided by the County from the 2021 General Election in which Dan Louismet was elected as Mayor, Heidi Hughes was elected as Councilmember Ward 2 and Keven Edberg was elected as Councilmember Ward 4.

Councilmember Walsh noted 30% turnout of eligible voters for the Mayoral race as compared to 27% in 2005, 15% turnout in 2009, 18% in 2017.

It was moved by Councilmember **Walsh** seconded by Councilmember **Edberg**, to adopt **Resolution No. 12876** canvassing municipal election results.

Motion carried unanimously.

### B. Resolution approving final design and authorizing the preparation of plans and specifications for the South Shore Boulevard Trail

City Engineer/Public Works Director Kauppi recalled that in February 2021, the City entered into a Memorandum of Understanding (MOU) with Ramsey County, for a preliminary design and layout for this project, which included the addition of a trail from White Bear Avenue to Bellaire Avenue with legislative funding through efforts by the Lake Links Trail Association. He outlined the terms of the MOU, which included a jurisdictional transfer of South Shore Boulevard from McKnight Road to Bellaire Avenue, roadway and trail design elements and cost participation elements.

He invited Greg Brown a Kimley Horn consultant, and Joey Lundquist a Project Manager with Ramsey County, who reviewed the preliminary design and timeline of the South Shore Boulevard Trail.

Mr. Brown explained that starting from west to east, the project starts on White Bear Avenue in which a trail and crosswalk connection across White Bear Avenue will be added to connect to an existing trail toward Goose Lake. The main trail tees in on Old White Bear and picks up the trail running along South Shore along the entire north side of the corridor and to County Road F. He noted curb and gutter will be installed along the northern side of the roadway with a grass boulevard to separate the trail and the roadway.

On the western end, Mr. Brown said, there will also be curb and gutter along the south side of South Shore Blvd. which will continue a bit east of Hazel and transition to a shoulder east of Lakeview Avenue on the south side. There will be parking along the southern edge of Lakeview Avenue to McKnight with a 2-lane roadway until reaching McKnight when it will be turn into a one-way, east-bound roadway. He said, once reaching Snyder's Bay, there will be a small parking area on the north side of the road.

Mr. Brown explained that further east in the project, the City's sanitary sewer and water main work will be incorporated into these improvements. He mentioned that any unresolved easements will be resolved through Eminent Domain by February 7, 2022, although residents have generally been supportive of this project and have provided good feedback. Mr. Brown explained that plans will wrap up this fall, right-of-way secured by February 7, then a bid process with construction beginning in early April.

Mr. Kauppi added the Council will be considering a Cooperative Agreement with the County once final costs of the project are known. Ms. Hiniker relayed that the estimates for the City's share in project costs are approximately \$350,000 - \$400,000. Ms. Lundquist added there will be some cost share with the City for right-of-way.

Councilmember Edberg asked about water quality related to this project. Related to stormwater, Mr. Brown explained that the curb and drainage infrastructure will better manage the water and in working with residents and staff, strategic locations for water filtration have been identified to allow for water collection and treatment. He added, the City requires more stringent water quality than the watershed districts.

City Manager Hiniker forwarded staff's recommendation to maintain its precedent not to bury electrical lines.

Scott Costello gave a presentation in support of undergrounding the electrical along Schneider's Bay. He provided an argument for the long term public benefit of buried lines in this location, citing that improved property values will eventually pay for the cost to the City to bury the electrical lines, approximately \$400,000.

There was discussion by Council noting continued concern for established precedent. Councilmember Jones and Biehn expressed interest in more closely examining the costs for future Council discussion, but it was ultimately determined there was insufficient time to coordinate this project with Xcel, even if the funding could be identified, if they wanted to keep the project on its current timeline.

It was moved by Councilmember **Walsh** seconded by Councilmember **Jones**, to adopt **Resolution No. 12877** approving final design and authorizing the preparation of plans and specifications for the South Shore Boulevard Trail.

Motion carried unanimously.

C. Resolution authorizing the City Manager to enter into a Joint Powers Agreement with the Town of White Bear

City Manager Hiniker noted this agreement is related to the Highway 96 Trail covered in the next item. She recalled, the Lake Links Trail folks were successful in getting \$500,000 in legislative funding for both the City and the Town of White Bear upon completion of a final design concept. In following prescriptive right-of-way as defined by MnDOT, it may be possible to shift the roadway north so the trail could remain along the lakeside without significant impacts to private property.

To further explore this alternative preliminary design option, Ms. Hiniker explained, Short Elliot Hendrickson, Inc. (SEH) prepared a scope of services amounting to \$25,274 which would be split equally between the City and the Township. The City would serve as the principal agent of



this joint powers agreement with the Town of White Bear for preliminary trail design work on state Truck Highway 96.

It was moved by Councilmember **Walsh** seconded by Councilmember **Biehn**, to adopt **Resolution No. 12878** authorizing the City Manager to enter into a Joint Powers Agreement with the Town of White Bear.

In deference to Councilmember Edberg, Ms. Hiniker explained that staff has concerns that the funding provided by the legislature is not sufficient to cover the cost of this project. She mentioned the first step is to work with neighbors to acquire cost estimates and Council will need to make a decision by the end of 2024 about whether to participate in the cost, ask for more money, or abandon the project altogether.

Motion carried unanimously.

- D. Resolution authorizing an agreement with Short Elliot Hendrickson, Inc. (SEH) for the completion of a Preliminary Design for the Highway 96 Trail from Ramsey Beach to the East County Line

Ms. Hiniker forwarded staff's recommendation that the City enter into a contract with SEH under the authority of the Joint Powers Agreement with White Bear Township approved in the previous item. The fee of \$25,274 would be split equally between the City of White Bear Lake and White Bear Township, each contributing \$12,637 toward preliminary design and construction cost estimates for the segment of the Lake Links Trail between Highway 61 and Truck Highway 244.

It was moved by Councilmember **Walsh** seconded by Councilmember **Biehn**, to adopt **Resolution No. 12879** authorizing an agreement with Short Elliot Hendrickson, Inc. (SEH) for the completion of a Preliminary Design for the Highway 96 Trail from Ramsey Beach to the East County Line

Motion carried unanimously.

- E. Resolution approving 2022 Union Contract with Local 49 – Public Works

City Manager Hiniker forwarded the Local 49 contract with a 3% adjustment at the beginning of the year, and 1% mid-year, with similar health benefits identified in the other approved union contracts and non-bargaining employees. She mentioned a restructuring of FTE in the department has allowed for the two mechanics, one being established in the contract as the Lead.

It was moved by Councilmember **Biehn** seconded by Councilmember **Edberg**, to adopt **Resolution No. 12880** approving 2022 Union Contract with Local 49 – Public Works.

Motion carried unanimously.

- F. Resolution rescheduling the public hearing on issuance of bonds to finance renovation of the Public Safety Facility and the related Capital Improvement Plan.

Finance Director Kindsvater explained that the previously approved timeline for publication of the public hearing for issuance of bonds was not sufficient to provide state required 14-day

notice for the public hearing. To ensure proper notice, she forwarded staff's recommendation to push the Public Hearing to the December 14, 2021.

It was moved by Councilmember **Edberg** seconded by Councilmember **Jones**, to adopt **Resolution No. 12881** rescheduling the public hearing on issuance of bonds to finance renovation of the Public Safety Facility and the related Capital Improvement Plan.

Motion carried unanimously.

## 10. CONSENT

- A. Acceptance of Minutes: August Park Advisory Commission, August White Bear Lake Conservation District, September Environmental Advisory Commission, October Planning Commission
- B. Resolution approving use of Podvin Park by the Hockey Association for one weekend in January. **Resolution No. 12882**
- C. Resolution authorizing SCORE Grant funding allocation and application. **Resolution No. 12883**
- D. Resolution designating polling places for all 2022 Elections. **Resolution No. 12884**

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

- The Work Session for Tuesday, November 16, 2021 has been canceled.
- Staff have been preparing for transition of the Mayor, Council and new City Manager.

## 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 **9:53** p.m.

Motion carried unanimously.

  
Jo Emerson, Mayor

ATTEST:

  
Kara Coustry, City Clerk