



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, FEBRUARY 14, 2023
7 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Mayor Dan Louismet called the meeting to order at 7 p.m. The City Clerk took attendance for Councilmembers Kevin Edberg, Steven Engstran, Heidi Hughes, Dan Jones and Bill Walsh. Staff in attendance were City Manager Lindy Crawford, Community Development Director Jason Lindahl, Public Works Director/City Engineer Paul, Kauppi, Economic and Housing Development Coordinator Tracy Shimek, City Clerk Caley Longendyke, and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

Mayor Louismet made opening comments about the recent officer involved shooting in White Bear Lake. He said it is an ongoing investigation, so there is no formal comment on the incident, but acknowledged the care and concern from those who reached out. He thanked the counties and cities surrounding White Bear Lake for offering their assistance during the traumatic event and extended the City's heartfelt thanks. He also thanked members of the community for their support and well wishes.

2. APPROVAL OF MINUTES

A. Minutes of the City Council Meeting on January 24, 2023

It was moved by Councilmember **Hughes**, seconded by Councilmember **Jones**, to approve the minutes. Motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones**, to approve the agenda as presented. Motion carried unanimously.

4. CONSENT AGENDA

- A. Accept Minutes – November White Bear Lake Conservation District, December Environmental Advisory Commission, January Planning Commission
- B. Summary of the City Manager's Performance Evaluation
- C. Resolution approving a special event application for a single event for Big Wood Brewery
Res. No. 13139
- D. Resolution approving a special event application for a weekly summer event for Big Wood Brewery
Res. No. 13140
- E. Resolution approving a massage therapist license application for Shannon Kron at DW's Therapeutic Massage
Res. No. 13141
- F. Resolution authorizing issuance of a massage therapy establishment license to Legacy of Light LLC
Res. No. 13142

- G. Resolution authorizing issuance of massage therapist license to Allison Crandall at Legacy of Light LLC **Res. No. 13143**
- H. Resolution granting two setback Variances for 2338 South Shore Blvd **Res. No. 13144**
- I. Resolution granting a Conditional Use Permit for 3220 Bellaire Avenue **Res. No. 13145**
- J. Resolution granting a Conditional Use Permit amendment for 2180 7th Street **Res. No. 13146**
- K. Resolution granting a Conditional Use Permit for 4857 Bloom Avenue **Res. No. 13147** Motion carried 4-0. Engstran abstained due to conflict of interest.
- L. Resolution authorizing staff to solicit RFPs for professional services to update the City's development regulations **Res. No. 13148**
- M. Resolution granting two setback Variances for 4556 Highway 61 **Res. No. 13149**
- N. Certification of Private Property Assessment for Recovery of City Expenses **Res. No. 13150**

It was moved by Councilmember **Jones**, seconded by Councilmember **Walsh**, to approve the consent agenda as presented. Motion carried 5-0.

5. VISITORS AND PRESENTATIONS

A. Community Development Bi-annual Report

Community Development Director Lindahl summarized a report for building permits, code enforcement activities and zoning activities. The building department saw a permit revenue increase of 31%, or \$430,000, compared to the previous year. For code enforcement activities, he said the report listed the types of violations by ward and type of case, most of which are complaint-based, instead of proactive, city-initiated cases. Wards 1 and 5 experienced the highest number of cases. For zoning activities, he said the upward and downward trends of the different categories were typical for each of the seasons and quarters.

B. Sports Center Annual Report

City Manager Crawford summarized the Sports Center activities for 2022, reporting that we were busy hosting public youth and high school hockey games, figure skating events, Learn to Skate programming and open skating sessions. She said the Sports Center received its new Olympia resurfacers and the machine has been consistently providing high-quality ice. She said the hockey training facility continues to provide valuable training for the White Bear Lake Hockey Association members. She summarized the major events that happened in 2022, including tournaments, a figure skating competition and section playoff games. She reported that the upgrades to the building's mechanical, HVAC, roofing, and lighting and control systems are complete, as well as the installation of solar panels. She talked about the financial reporting comparing 2021 to 2022, but noted that the pandemic skews the data. Nonetheless, there were significant revenue increases, in part due to the LiveBarn streaming subscription service. Revenue for the Armory was down by about \$2,000 and revenue from Boatworks Commons reservations increased \$270.

6. PUBLIC HEARINGS

A. First Reading of an Ordinance Adopting New Chapter 1128 to Permit Sidewalk Cafés

Economic and Housing Development Coordinator Shimek provided a summary of the presentation from the January 24 City Council meeting. During the pandemic, there was a temporary process allowing food- and beverage-serving businesses to expand their seating onto sidewalks to promote social distancing. While there are no longer social distancing requirements, she reported that the City has received requests from businesses to continue providing outdoor seating. Following initial discussion in the spring and again on January 24, the City Council directed staff to bring back a proposed ordinance for consideration.

Shimek summarized the proposed language of the ordinance, which first defines eligible businesses and locations, then the application process, criteria for placement and size, guidelines for businesses serving liquor in the sidewalk café, responsibilities of the establishment and enforcement of the ordinance. Staff will be proposing an initial application fee of \$150 and renewal fee of \$60. There will be minimum aesthetic requirements for furnishings and barriers when required. She explained that the season for sidewalk cafés is limited to May 15-October 15 with service being allowed between 8 a.m.-10 p.m. The purpose of the defined dates is to ensure furniture is clear to allow for snow removal. In addition to the required notice in the newspaper, she said restaurants, bars and cafés were individually notified of the proposed ordinance and public hearing.

Mayor Louismet opened the public hearing at 7:17 p.m. Terry Kellerman, business owner at 2222 4th Street, complimented the proposal but expressed concern about fairness from business to business. He said establishments will be allowed to expand their area and not have to pay for property taxes, while other establishments have purchased the property for their expansions and paid the related costs overtime. Shimek read submitted comments from other business owners. Cobblestone Café owner Alicia Buroker expressed displeasure of the added fees for businessowners to expand their seating, especially following the pandemic when there continues to be staffing issues and astronomical food costs. Buroker said her business has had sidewalk seating for 23 years and doesn't see a good reason for the change and additional costs to businesses. Elizabeth Lawin, The Brickhouse owner, shared the importance of sidewalk seating for her business and said they love having the ability to have customers dine outside and experience the atmosphere of Washington Square. Lastly, Keys Café owner Celine Dinauer shared her enthusiasm for businesses being able to have sidewalk seating and shared information about the possibility of implementing sidewalk seating for her own business.

There being no further comment, the public hearing was closed at 7:22 p.m. Mayor Louismet affirmed that the proposed ordinance is not meant to take away businesses' opportunities, but to put a process in place for more businesses to expand to outdoor seating in a safe and responsible manner. Regarding the fees, he said they are meant to offset the costs for City staff resources to process applications and assist businesses. He said he supports a minimal renewal cost if the business maintains the same setup as the approved initial setup. He didn't favor the window of dates for sidewalk cafés and asked City staff to allow flexibility for businesses to offer sidewalk seating when the weather supports it. He proposed an earlier start time for sidewalk cafés, specifically addressing businesses serving breakfast before 8 a.m. Mayor Louismet addressed the provision prohibiting glass on sidewalk cafés and was not in favor of forcing businesses to buy plastic just for their patios. He requested to let businesses use their glassware, then make changes if it becomes an issue. He expressed support of allowing

businesses to have a seating area that is not compact and continuous when liquor is not offered.

Councilmember Walsh asked about the purpose of the state requiring a compact and contiguous area when liquor is served. City Attorney Gilchrist cited Minnesota Statutes 340A. City Manager Crawford said one reason for keeping sidewalk cafes compact and contiguous, whether they serve liquor or not, is to prevent servers having to weave between pedestrians on the sidewalk to get to the café area. In response to Mayor Louismet's comments on fees, Crawford explained that all fees are based on staff time so that the cost is not borne by the entire community. She said the \$150 fee for the initial application is covering costs for multiple staff to work on the application. She added that the proposed fee is less than actual costs of staff involvement. Councilmember Jones said Kellerman's public hearing comments are justifiable and acknowledged that businesses are making a lot of money on public sidewalks without any fees. He said the proposed ordinance and associated fees provide some equity between businesses who are able to provide sidewalk seating. He expressed support for the ordinance but foresees it will take more than a year for sidewalk cafés to conform to the exact requirements.

Mayor Louismet reviewed the areas needing discussion, including the date and time parameters and the restriction on glassware. Crawford explained that the dates were chosen based on possible weather events, but would be open to providing flexibility to businesses, and the times were chosen to align with the park hours but was also open to discussion. She requested that Councilmembers not make any changes to the glass provision because of the safety issue of broken glass on sidewalks. Public Works Director/City Engineer Kauppi said the start date can be flexible, but the end date in the fall is necessary to get sidewalk furniture loaded and removed offsite in a timely manner. Councilmember Jones asked how City staff will address Marketfest and how businesses need to comply. City Attorney Gilchrist said he will review the ordinance to ensure it is clear that businesses don't need single-day permits to implement sidewalk seating when allowed during specific City-sponsored events and that the City Manager has the ability to require removal or repositioning of furniture during specific City-sponsored events. Councilmember Edberg supported a May 1 start date, a 7 a.m. start time and a non-contiguous sidewalk café for non-liquor establishments. Councilmember Walsh was also in support of the earlier start time and date, but was still not in support of a renewal fee since it seems to be a minimal cost and it wouldn't require much staff time if the sidewalk café hasn't changed. Councilmember Hughes didn't find it necessary to require a sidewalk café to be contiguous if they're not selling liquor and thinks it's inconvenient for pedestrians to have to walk around patio areas. When Councilmember Edberg asked about businesses being allowed to remove barriers if liquor isn't served on a particular day, Crawford said if the establishment has a liquor license, their sidewalk café must have barriers at all times even if they choose not to sell liquor on particular days.

7. UNFINISHED BUSINESS

Nothing scheduled.

8. NEW BUSINESS

A. Resolution granting a Conditional Use Permit for 2186 4th Street

Community Development Director Lindahl shared a request submitted by Corey Roberts, business owner of The Minnesotan located at 2186 4th Street. Roberts is requesting to convert his retail business into a liquor lounge that sells retail. Lindahl said this request can be made through a conditional use permit application, which would convert the retail business into a liquor lounge, serving as the principal use of the property, and retail as an accessory use. The floorspace of the business needs to be at least 70% liquor lounge and up to 30% accessory retail. Lindahl summarized conversation with the applicant concerning the floorplan, the required seating and limitation on products being sold. Providing some background information on the business, he said The Minnesotan is currently is a retail business but the owner wishes to incorporate a self-serve tap system containing alcoholic beverages and offer pizza. Lindahl said the resolution being presented is only regarding the land use and zoning portion of the business model, and that a condition of the approval is that the applicant will apply for a liquor license, which governs how and where liquor can be consumed on site. He shared an image of the floorplan, but anticipates a more detailed floorplan will be necessary for the liquor license. There will also be changes made to the back exterior of the building.

In providing clarification to a question about the allowable products sold within the accessory retail, Lindahl referred to the definition of accessory, explaining that it is reasonably necessary and connected to the principal use. It is the choice to have accessory use, which is no more than 30% of the total area, and it has to be incidental to the actual principal use. With selling product, it has to be related to the business. Lindahl explained that selling product beyond what is related and branded to the principal use would make it a general retail store which is counter to the accessory use to a liquor lounge. Mayor Louismet questioned what products are reasonably necessary to alcoholic beverages, and whether they needed to be separate businesses. When asked if the 70-30 percentage or number of seats can be varied, Lindahl said that the limitation on primary and accessory use regarding space and seating are specific standards outlined in the code that were created for that specific type of use. City Attorney Gilchrist advised that it's within the City Council's purview to vary from city ordinance, but cautioned the difference between "can" and "should". City Manager Crawford brought attention to how the seating requirement condition listed in the proposed resolution is consistent with the seating required to obtain a liquor license, so she doesn't recommend the City Council deviate from those standards.

Councilmember Hughes addressed the design on the clothing currently being sold at The Minnesotan and noted that it isn't all specifically branded to the establishment. Hughes said the non-branded clothing still represents White Bear Lake and is unique to the owner's design. She wondered if the business could continue selling those items. Lindahl pointed out that the proposed business idea is new to the area and staff is following what is laid out in the code for the strict measurements and, after analyzing the language, providing its best interpretation to the limitation of the products sold under the accessory use. He gave an example of being able to purchase hair care items in a hair salon, but not general items like a toaster. Crawford reiterated that it is a unique request and that there has been significant discussion between staff and the State, but it has been made clear that a general retailer cannot sell liquor and the businesses have to be separate. Mayor Louismet foresees additional conversation about this when the liquor license application is submitted. Councilmember Edberg asked how seating

requirements are impacted if a sidewalk café application is submitted. City staff would have to review this further if a request is made. Councilmember Jones is not in favor of increasing the number of seats as it relates to public safety and issues with establishments serving primarily liquor. In response to a question asking if the applicant agrees to the conditions, Lindahl confirmed the applicant has been in agreement and is interested in moving forward.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Hughes**, to approve **Res. No. 13151** granting a conditional use permit for 2186 4th Street.

9. DISCUSSION

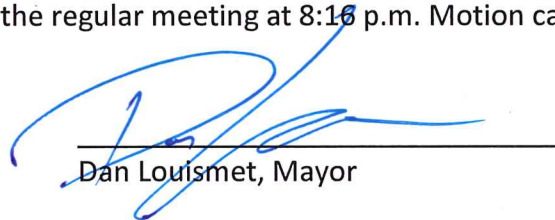
Nothing scheduled.

10. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Crawford shared information about a survey being conducted by Ramsey County for an all-abilities 2050 Transportation Plan. She reported on upcoming events included a legislative reception for the White Bear Area Chamber of Commerce and shared that staff will be a presenter at an out-of-state AV America conference. City staff will present information on Bear Tracks.

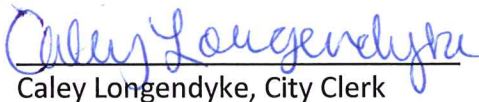
12. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Walsh**, seconded by Councilmember **Hughes**, to adjourn the regular meeting at 8:16 p.m. Motion carried unanimously.



Dan Louismet, Mayor

ATTEST:



Caley Longendyke, City Clerk