



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MARCH 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, Steve Engstran, Heidi Hughes, Dan Jones and Bill Walsh. Staff in attendance were City Manager Lindy Crawford, Assistant City Manager Rick Juba, Community Development Director Jason Lindahl, Public Works Director/City Engineer Paul Kauppi, Building Official Ben Eggan, City Clerk Caley Longendyke, and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the City Council Meeting on February 28, 2023

It was moved by Councilmember **Jones**, seconded by Councilmember **Hughes**, to approve the minutes. Motion carried 4-0. Councilmember Engstran abstained.

3. APPROVAL OF THE AGENDA

Mayor Louismet moved the consent agenda item approving business license renewals (4B) to new business (8B). He also moved the consent agenda item approving a logo copyright agreement (4I) to new business (8C). It was moved by Councilmember **Edberg**, seconded by Councilmember **Walsh**, to approve the agenda as amended. Motion carried unanimously.

4. CONSENT AGENDA

- A. Accept Minutes: November Park Advisory Commission, January Environmental Advisory Commission, January White Bear Lake Conservation District, February Planning Commission
- B. ~~Resolution approving Business License Renewals~~ *Moved to New Business 8B*
- C. Resolution approving On-sale Wine and Sunday Liquor Licenses for Carse Inc. dba Keys Café
Res. No. 13161
- D. Resolution granting three setback Variances for 4815 Lake Avenue **Res. No. 13162**
- E. Resolution granting a Conditional Use Permit for 955 Wildwood Road **Res. No. 13163**
- F. Resolution granting a Permanent Easement on the 8th Street parking lot property **Res. No. 13164**
- G. Resolution approving participation in the Minnesota Opioid Settlement **Res. No. 13165**
- H. Resolution approving an off-sale liquor license for TLC Liquors LLC, dba MGM Wine & Spirits **Res. No. 13166**
- I. ~~Resolution approving a Logo Copyright Agreement~~ *Moved to New Business 8C*

It was moved by Councilmember **Walsh**, seconded by Councilmember **Edberg**, to approve the consent agenda as amended. Motion carried unanimously.

5. VISITORS AND PRESENTATIONS

Nothing scheduled.

6. PUBLIC HEARINGS

A. First Reading of an Ordinance Amending the 2023 Fee Schedule

City Manager Lindy Crawford presented a first reading of a proposed ordinance amending the 2023 Fee Schedule. The amendment is in response to the City Council approving an ordinance allowing sidewalk cafes in the City, and the changes to the Fee Schedule would be the addition of associated fees related to sidewalk cafes. The proposed fees include an initial application fee of \$150, a renewal fee of \$125 when there are significant changes to the sidewalk café from the previous year, a renewal fee of \$60 when there are no changes from the previous year, and a violation fee set at \$100. There was no comment made during the public hearing. Councilmember Walsh doesn't favor a renewal fee when there are no changes to an existing sidewalk café, and said he may make a motion at the next City Council meeting to amend the proposal.

A second reading and vote of the proposed ordinance is scheduled for the March 28, 2023 City Council meeting.

7. UNFINISHED BUSINESS

Nothing scheduled.

8. NEW BUSINESS

A. Minnesota Public Employees Association Labor Agreement – Patrol Officers

Assistant City Manager Rick Juba summarized the two-year labor contract for Minnesota Public Employees Association for Patrol Officers. Councilmember Hughes asked how the City's compensation compares to other cities and if the City is staying competitive. Juba said the classification and compensation study helped identify the competitive range and the City's pay falls within that range. Councilmember Hughes complimented the work of police officers and wants to make sure their compensated appropriately.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Hughes**, to approve **Res. No. 13167** approving a labor agreement with Minnesota Public Employees Association Labor Agreement for Patrol Officers. Motion carried unanimously.

B. Resolution approving Business License Renewals

City Manager Lindy Crawford provided an overview of the business license renewals, including information on license changes and outcomes from compliance checks. She brought attention to the two rounds of compliance checks conducted at tobacco shops for THC products. At the September 27, 2022 regular meeting, the City Council approved a 12-month moratorium prohibiting the sale of THC products. Five establishments were found to be selling THC products and failed the first compliance check, and two of those establishments, MNJ Tobacco Inc. and

Nothing But Hemp, failed a second compliance check. She also noted a liquor-licensed establishment that was serving liquor past 1 a.m. but didn't have a permit issued from the state to do so.

Mayor Louismet asked about the status of the criminal cases against the businesses illegally selling THC products. City Attorney Gilchrist said the criminal cases are ongoing and may take several months before a conclusion. When Mayor Louismet asked how illegally selling a product affects the businesses' tobacco licenses, Gilchrist explained that violations typically relate to the activities associated with the type of license, but he noted that the City ordinance outlines a list of reasons for basis for denial of a license and the list is "not exhaustive or exclusive". He said the City has discretion based on the language. Councilmember Walsh referenced the provision that the City can deny a license if the licensee has outstanding fines, penalties, charges or property taxes owed. While the tobacco license is not directly related to THC, he said the businesses are defying the City's moratorium and explained that a business should be in good standing and follow the rules of the City to be issued their business licenses. He questioned their future compliance with THC and City rules in general. He was supportive in denying the renewal of tobacco licenses to MNJ Tobacco Inc. and Nothing But Hemp. There was discussion about the interpretation of the term 'charges' and whether it means criminal charges or monetary charges. Gilchrist said the word is directed towards monetary charges.

Gilchrist advised City Council that if they were inclined to further discuss the businesses' licenses, they can approve the rest of the renewals and make a motion to continue the discussion on the two businesses to the next meeting. Notice would be provided to the two business owners to provide them opportunity to speak to the City Council. Councilmember Edberg asked about the City's obligation, if any, to provide opportunity to the businesses for amendment. Gilchrist said failing two compliance checks is indication of clearly acting. Councilmember Jones requested Gilchrist to read the City's ordinance for basis of denial, and suggested suspending their licenses, at the very least. He said all other businesses are following City regulations and he is not supportive of allowing these businesses to continue operating. Mayor Louismet said there is still time before the new licensing period to move the discussion to the next meeting and allow time for the City to do their due diligence, including notice to the licensees. Gilchrist advised the City Council move the two business licenses to the next meeting, because City ordinance requires granting the licensees reasonable notice and an opportunity to be heard.

Mayor Louismet asked City Manager Crawford for clarification on the 2 a.m. liquor permit. Crawford explained that there are four on-sale liquor establishments open until 2 a.m., but only three are properly permitted, with White Bear Bar being the one establishment not in compliance. It is a state-issued permit that is signed off by the City Clerk. Mayor Louismet suggested deliberation among the Council on whether they want to table White Bear Bar's renewal to the March 28, 2023 meeting. There was no further discussion about White Bear Bar.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran**, to approve **Res. No. 13168** approving business license renewals for the license period April 1, 2023 to March 31, 2024, with the exception of MNJ Tobacco and Nothing But Hemp whose licenses will be discussed at the March 28, 2023 City Council meeting. Motion carried unanimously.

C. Resolution approving a Logo Copyright Agreement

City Manager Lindy Crawford presented a resolution for the City Council to approve a logo copyright agreement involving bear drawings by Dan Jones, resident and City Councilmember. She explained that the bear drawings are used in various areas of the City, including signage, City emblem, City logo and the water tower. The agreement would transfer all rights for the bear drawings from Councilmember Jones to the City. Mayor Louismet noted there is no monetary compensation for the drawings and thanked Councilmember Jones for offering them to the City.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Walsh**, to approve **Res. No. 13169** approving the execution of an agreement for a logo copyright transfer. Motion carried 4-0. Councilmember Jones abstained.

9. DISCUSSION

A. Concept Plan Review for 2502 County Road E

Community Development Director Jason Lindahl introduced the concept plan for 2502 County Road E, and shared that this is the first presentation for the newly implemented concept plan review process. He reminded the public that this process provides various opportunities for the applicant to receive feedback on a concept plan proposal. Lindahl provided an overview of the concept at 2502 County Road E, which is currently a vacant gas station. The request is to develop the lot into 15 apartment units and three townhomes, including indoor and outdoor parking stalls and townhome garages. The building would be three stories at the corner of the intersection and transition to two stories. Lindahl summarized the analysis of what is allowed for that lot, including the density of units, height of the building, setbacks, parking stall requirements and exterior materials. He said the concept doesn't meet standards for front or street side setbacks, exceeds the maximum building height and doesn't meet the minimum number of parking stalls. Lindahl summarized the feedback from the neighborhood meeting and said there were concerns in the areas of number of units, height, parking, stormwater, snow storage and the Jansen Avenue entrance. He said the Planning Commission shared similar concerns, but supporters of the idea complimented the design and the communication from the developer. Lindahl said the next steps to the process would include rezoning, Planned Unit Development application and review from Ramsey Washington Metro Watershed District. He provided information about the building's height and density, and how it compares to other White Bear Lake multifamily structures.

The applicant, Ryan McKilligan of Element Design-Build LLC, provided more detail to the concept plan. He said there was a lot of communicating with surrounding residents and business owners about the concept and collected feedback on what areas need to be addressed. He acknowledged parking and the number of residential units were main areas of concerns. He explained the intention of the design is to activate streetscape towards the corner of the busy intersection, but also create subtlety toward the corner abutting a quiet residential neighborhood. McKilligan shared renderings and floorplans of the development and highlighted the different elements of the building. He explained more about activation of streetscape and

exhibiting common and living areas on the exterior edge of the building and keeping parking towards the interior of the lot. He said there is one parking stall per bedroom of the building and explained there will not be parking fees to ensure full usage of off-street parking.

Mayor Louismet opened the meeting for public comment at 8:26 p.m. Lee Branwall, resident at 3583 Glen Oaks Avenue, referenced his correspondence sent to Councilmembers and said he speaks on behalf of more than a dozen neighbors. He brought attention to the applicant's comment stating they went around to speak to neighbors, but Branwall said none of his neighbors were approached. He said the neighbors are strongly against the development idea. The areas of concerns include the height of the building, parking, the water runoff down into Peppertree Pond and replacement of the mature trees. In addition to Branwall's concerns, Ann Coves of 3585 Glen Oaks Avenue requested that City Councilmembers visit the site and her neighborhood, noting the number of kids that use Jansen Avenue to catch the school bus. Chris Greene, resident of 3587 Glen Oaks Avenue, agreed with the concerns shared by his neighbors and specifically mentioned how the height of the building will seem enhanced to the neighboring homes that are downhill. He also encouraged City Councilmembers to visit the area. He recommended the Council consider the incurred costs to create a turn lane. Lastly, he asked the developers to consider alternative designs that aren't three stories tall. Frank Watson of 3569 Glen Oaks Avenue agreed with concerns about height and told Councilmembers to visit The Arbors of White Bear Lake as a point of reference for the proposed development's height, and add 6.5 feet. He doesn't want the City to "just building something." He has not heard a stormwater management plan and has concerns for runoff to Peppertree Pond. There being no further comment, Mayor Louismet closed the public comment portion at 8:36 p.m.

Mayor Louismet asked McKilligan if the project would still be financially viable if the number of stories was reduced to two stories. McKilligan said one story of units above structured parking is not viable. When asked if they've explored selling the units instead of renting, McKilligan says the current market and interest rates don't support selling the units. He talked more about the parking stalls and said there are six parking stalls for guests in addition to the one parking stall per bedroom. Councilmember Walsh asked how that compares to the City's parking requirement, to which Director Lindahl responded the City typically requires two stalls per unit. The concept plan is four stalls short of that requirement. Comparing it to The Barnum, a new apartment development, Lindahl said the Planned Unit Development provided flexibility for a lower parking stall-to-unit ratio. Councilmember Edberg complimented McKilligan's involvement in the County Road E Corridor Action Plan. When asked about the role of Element Design-Build LLC after development, McKilligan said the company owns, operates and stabilizes all of its projects. Councilmember Edberg brought attention to the mature trees surrounding the building. McKilligan said many of the mature trees are on the neighbor's property and the development will include replacing some of the cleared vegetation and trees and installing a 6-foot fence on the east line. Councilmember Hughes asked about alternatives for lowering the parking lot into the ground to address the height and McKilligan said the costs are prohibitive and it would create a net loss in parking. Councilmembers asked Lindahl about height requirements and other apartments in the City. Public Works Director/City Engineer Paul Kauppi answered questions about parking availability around 2502 County Road E. Lindahl addressed the applicant not meeting criteria of setbacks in exchange for components of streetscape activation. Kauppi noted that the County Road E and Bellaire Avenue intersection is

signalized, so there are controls in place to allow for safe pedestrian crossing. Lindahl answered Councilmember Edberg's questions about zoning and land use planning.

Councilmember Walsh complimented the concept plan review process and thanked the applicant for embracing the process. He supported the idea of reducing the number of stories toward the neighborhood and said he favors ownership over renters, so he encouraged exploring those options. Councilmember Jones honored the residents' concerns about height and said he would not support height over the maximum of 35 feet. He appreciated the business model of not charging for parking to minimize street parking, but emphasized the need for a sidewalk. Councilmember Jones mentioned stormwater drainage and trusts that the City and Watershed District will create a plan to address it. Councilmember Jones expressed his general support for bringing action to the intersection. When Councilmember Edberg asked if there were concerns about stormwater management for this property, Kauppi said developers have to meet the City's strict requirements and it may actually improve conditions in the area. Councilmember Edberg told the applicant that the parking and height are his areas of concern, but recognized that this has been the best proposal thus far for the property.

Councilmember Hughes shared support for the proposal and doesn't share the same level of concern for the height and on-street parking. She appreciated the no-cost parking incentive for residents using the parking stalls. She encourages planting of large trees and vegetation to help with the perspective of height. Agreeing with Councilmember Walsh, she favors ownership but understands that might not be possible. Councilmember Engstran strongly opposed the idea, and specifically addressed the height. He would prefer an alternative design with all townhomes. Mayor Louismet summarized the feedback for the applicant and said the Council is mostly receptive of the concept plan but there are areas of improvement. He suggested that the Council consider that the applicant is willing to invest money into the community and the idea supports the City's housing goals.

B. Abatement of Hazardous Property and Public Nuisance – 2239 Carlyle Court Update

Building Official Ben Eggan provided an update on 2239 Carlyle Court, a property deemed unsafe and was ordered to be abated, an action approved by City Council majority vote at their December 13, 2022 meeting. The order was served on January 4, 2023 initiating the 60-day timeline for compliance to the abatement before filing with the Ramsey County District Court. Eggan explained recent events since the abatement order, including communication and a written statement from Ramsey County, regarding a plan to assist the homeowner with securing funding, rehabilitate the home and coordinate a County-hired contractor. The County requested the City withhold proceeding with the abatement order as they assist with the rehabilitation. Eggan reported the progress that has been made thus far. He asked the City Council for direction on whether staff should move forward with filing the abatement order, based on Council's vote on December 13, 2022 and being past the 60-day deadline, or allow the homeowner more time based on the cooperation and request from the County. Lindahl shared information on the funding that has been secured.

Mayor Louismet asked if granting more time to the homeowner would limit the City's ability to move forward with the filing at a later time if progress has stalled. City Attorney Gilchrist said

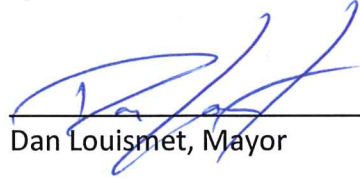
providing more time shows that the City is giving the homeowner multiple opportunities and it would strengthen their position later if filing was needed. Mayor Louismet was supportive of giving more time, but only if progress was being made. Councilmember Jones concurred that progress must continue or the City will move forward with the filing.

10. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Lindy Crawford shared upcoming events, including a Concept Plan Review Neighborhood Meeting for 2687 County Road D and a Conditional Use Permit Neighborhood Meeting for the White Bear Lake Area Schools North Campus. She shared the Public Safety Building construction has started on the interior of the building. She provided a general timeline of the renovation project. Councilmember Engstran asked about medicine drop-off and Crawford said the City will be temporarily redirecting medicine to other identified sites in Ramsey County.

12. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran** to adjourn the regular meeting at 9:54 p.m. Motion carried unanimously.



Dan Louismet, Mayor

ATTEST:



Caley Longendyke, City Clerk