



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MARCH 28, 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, Public Works Director/City Engineer Paul Kauppi, City Clerk Caley Longendyke, and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the City Council Meeting on March 14, 2023

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

B. Minutes of the City Council Work Session on March 21, 2023

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

3. APPROVAL OF THE AGENDA

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

4. CONSENT AGENDA

A. Resolution ordering 2022 Stormwater Pollution Prevention Program Public Hearing Res. No. 13170

B. Resolution adopting Rotary Nature Preserve Wetland Vegetation Management Plan Memorandum of Understanding Res. No. 13171

C. Resolution authorizing solicitation for RFP for preferred development of city owned property located at 1755 Hwy 96 Res. No. 13172

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

5. VISITORS AND PRESENTATIONS

A. Biannual Police Department Report + Swear in Police Officers

The following police officers were given the Oath of Service by the city clerk: Samantha Moriarty, Cole Campbell and Kyle Torvik.

Police Chief Swanson presented the biannual Police Department report. She reported that the three new officers make the Department almost fully-staffed. She provided an overview of the staffing structure and the schedule of patrol teams. She shared information about new officers and explained the training process, which lasts about 12-14 weeks. The MN POST Board, an administrative body of the State of Minnesota, is the licensing agency for police officers. Chief Swanson emphasized the importance of the organization, explaining it also oversees operations and regulations of police departments. She shared information about police officer training, consisting of a required 48 hours during each three-year cycles that cover various topics, but she estimates police officers actually receive about 150 hours.

The Police Department partners with Northeast Youth and Family Service Community Advocate Program which provides a shared case worker to respond to certain situations involving mental health issues, family instability, medical care and more. Chief Swanson said it's been a great resource, especially for those not wanting to interact with law enforcement. Another partnership is with Masa Consulting, which supports police officers with their wellness and mental health. She noted this was a helpful tool following the recent incident involving the shooting of a White Bear Lake police officer. She said these services are valuable for the Department and its officers. She explained the other partnerships with Ramsey County VCET, Ramsey County SWAT, Mobile Field Force, MN Bureau of Criminal Apprehension and Ramsey County Suburban Police Departments. She highlighted the police volunteers serving on the White Bear Lake Police Reserves, CERT, Citizen's Police Academy and TRIAD.

Chief Swanson reported that the numbers of calls for service in 2022, totaling just over 21,000 calls, is down from 2021, which totaled closer to 23,000 calls. She provided a breakdown and explanation of the types of calls. She reported that traffic stops were up from 2021. Chief Swanson shared a list of community outreach events. She said the events are initiated by the Department, but are greatly supported by local businesses and community members.

When Councilmember Edberg asked about the trend in traffic stops over the years, Chief Swanson reported that the number of stops has remained consistent, but she has seen a downward trend in number of DWIs, probably due to increase use of ride-sharing services and establishments not being open as late as they were before the pandemic. She talked about the state and federal funding that allow the City to do off-duty detail focusing on traffic. Councilmember Edberg addressed speeding in the neighborhoods and Chief Swanson shared some traffic calming opportunities, but said speed patrol has been the best tool.

B. Body-Worn Camera Audit

Police Chief Swanson presented findings of the Body-Worn Camera Audit. She said the Police Department started the implementation of body cameras about four years ago, and full-use implementation three years ago. As part of body-worn camera use, the City is required to have regular audits and the city selected the Minnesota Security Consortium to audit the program. She explained the audit process and what the auditors look for, including proper case labeling

and proper categorizing and labeling of retention periods. She reported the Consortium reviewed 52 random cases which they selected and the Police Department was successful in the audit. She said the Department has very good compliance with the body cameras and reported that officers use them appropriately and effectively. The officers also find the cameras valuable.

Councilmember Edberg questioned if the audit sample was big enough. Chief Swanson said the Consortium reports the findings to the state and they determined the sample size. She stated she is confident in the Department's use of body-worn cameras, because supervisors review footage daily. Councilmember Walsh asked if the policy that was put in place for the body-worn cameras is sufficient for the Police Department and Chief Swanson responded that it has been, and it was modeled from the League of Minnesota Cities and the MN Post Board policies. City Manager Crawford noted that the Consortium commented on how easy it was to conduct the audit and they acknowledged the organization of the Police Department files. Crawford commended Chief Swanson, who passed the credit on to Carrie Varco, Evidence Technician and Body-Worn Camera Specialist, who greatly assisted with the audit process.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Edberg**, to approve **Res. No. 13173** accepting the Body-Worn Camera Audit as required by Minn. Stat. 13.825, Subd. 9(c). Motion carried unanimously.

6. PUBLIC HEARINGS

Nothing scheduled.

7. UNFINISHED BUSINESS

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

City Manager Crawford summarized an ordinance amending the 2023 Fee Schedule that incorporates fees related to the new sidewalk café ordinance that was adopted at the February 28 City Council meeting. A first reading and public hearing for the Fee Schedule amendment was conducted at the March 14 City Council meeting. Crawford explained that the fees are based on the cost of staff time for processing and reviewing applications, which may involve up to eight staff members for new applications. She commented that the proposed fee is lower than actual costs, but acknowledges that it's consistent with other cities. For clarification, Mayor Louismet asked what constitutes a significant change to a renewal application. Crawford and Public Works Director/City Engineer Kauppi said a significant change would involve a perimeter change of the sidewalk café, for example. Mayor Louismet shared support for lowering the renewal cost when there are no changes for a renewal application. Councilmember Walsh recommended eliminating a renewal fee when there are no changes to the sidewalk café from the previous year. Councilmember Jones supported the renewal fee, explaining that he trusts staff to determine the time it takes to review applications, and he brought attention to the fact that private businesses are using public property. Councilmember Hughes recognized that the opportunity to have a sidewalk café benefits only a handful of establishments and supported the fees since they're using public property.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Edberg**, to approve

Res. No. 13174 amending the 2023 Fee Schedule as presented. Motion carried unanimously.

B. Tobacco License Renewals

At the March 14 regular meeting, the City Council approved annual business license renewals for all but two establishments. The two establishments, MNJ Tobacco Inc. and Nothing But Hemp, each failed two compliance checks for selling THC products, which can be considered basis for denial for a tobacco license. The City Council voted to continue the discussion to the March 28 regular meeting to provide proper notice to the licensees. Mayor Louismet invited the licensees and representatives to speak.

Attorney Bryce Holstad, representing MNJ Tobacco Inc. and business owner Maan Altamimi, argued on behalf of his client. He shared information about due process rights and replied to comments made at the March 14 City Council meeting saying his client has been charged. He said his client has not violated the ordinance and has not committed crimes as it relates to his tobacco license.

Eva Droz, co-owner of Nothing But Hemp, said the business is complying with the moratorium and said they pulled all products above the 0.1% THC limit. Attorney Susan Burns represents the business and had previously issued her opinion that her client is entitled to continue its operations with selling products under 0.1% THC limit. She said she shared some of the same concerns as Holstad. She said her client's products are compliant and asked about the violations that occurred.

Mayor Louismet deferred to the City Attorney about the status of a criminal complaint. City Attorney Gilchrist said the prosecuting attorney expressed intent to issue charges against the businesses. Nonetheless, Gilchrist explained the violation is not exclusively criminal and there could be an administrative offense. He said it is up to the City Council to determine whether it should issue a tobacco license to a business selling products that the City deems to be in violation of its ordinances. He reminded Council that the list for basis for denial of a tobacco license listed under City Ordinance §1104.040 is not exclusive or exhaustive. When asked about the prohibited amount of THC listed in the moratorium, Gilchrist said the limit is 0.1% and explained that in an attempt to exempt sales of CBD products with trace amounts of THC from the moratorium, a de minimis amount was established. He said the two businesses are claiming they are selling products with amounts less than the limit. Gilchrist explained the testing requirements outlined in state statute and that manufacturers have to disclose how much THC is in the product. Mayor Louismet explained that being in violation of the moratorium is basis for denial based on the tobacco. He said a criminal complaint can take time, but a formal charge is not necessary to deny the license. He said the Council can re-issue the tobacco license if the businesses are found to be in compliance.

Councilmember Edberg said he understands that the list for basis for denial is not exclusive or exhaustive, but pointed out that the list is specifically related to tobacco. He said he doesn't think the scenario fits within the list and said he doesn't have supporting materials or evidence to support that they violated the ordinance. He stated he was not comfortable making the decision to deny their tobacco licenses. Councilmember Walsh responded to Councilmember

Edberg's comments saying the list for basis for denial isn't all related to tobacco, specifically referencing the clause about businesses paying their property taxes, which he said is not specifically related to tobacco. He believes the Council is within its rights to act on the violation, however he did share Councilmember Edberg's caution on not having the evidence in front of Council and the businesses not being charged. Councilmember Walsh asked about the City's ability to re-issue the tobacco licenses if the businesses get in compliance. Gilchrist said the ordinance doesn't have a prohibition for re-applying, but also explained there is an option for suspension versus revocation of the licenses. Councilmember Edberg recognized legislation could change the conversation all together. He reiterated not having the evidence he feels is necessary for him to deny the license, so suggested renewing the license and follow up with additional compliance checks.

Councilmember Jones expressed frustration with the two businesses who continue to sell products that are prohibited. He referenced product that was purchased that day, which lists on the package that the THC amount it is over the limit. He said businesses that are following the moratorium are losing customers to businesses not following the moratorium. He expressed interest in seeking suspension. He added that the Police Department has always done license compliance checks, and the Council has never requested evidence. Mayor Louismet read directly from the product purchased from Nothing But Hemp, which lists Delta 9 THC at .111% and .114%. He said the product is over the limit, and said the moratorium doesn't allow variance of measurement. Mayor Louismet accepted additional comment from the businesses' representatives. Councilmember Hughes shared she was not in support of denying the license based on the conversation and shared concerns of other councilmembers. Councilmember Walsh believes the Council has the authority to deny the license based on the tobacco ordinance and failing two compliance checks. He was in support of denying their license and would hope the businesses get in compliance for their licenses to be re-issued. There was clarification for the businesses to get their tobacco licenses re-issued during a moratorium prohibiting establishment of new tobacco shops or current tobacco shops expanding their floor plan.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Jones**, to approve a resolution that would deny the renewal of tobacco licenses for MNJ Tobacco Inc. and Nothing But Hemp. Discussion ensued. Councilmember Edberg said he will be voting against this resolution due to the lack of evidence and the livelihoods at stake. Councilmember Jones challenged the language in the moratorium and wondered if it should be modified it to prohibit all sale of any measure of THC. With discussion at the legislature about THC, Councilmember Walsh encouraged Councilmembers to focus on the two tobacco licenses in question before exploring modifying the moratorium. Motion failed 2-3, with Councilmembers Walsh and Engstran voting in support, and Councilmembers Edberg, Hughes and Jones voting against.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Hughes**, to approve **Res. No. 13175** approving the renewal of tobacco licenses issued to MNJ Tobacco Inc. and Nothing But Hemp. Motion carried 3-2, with Councilmembers Edberg, Hughes and Jones voting in support, and Councilmembers Walsh and Engstran voting against.

City Manager Crawford reaffirmed that the City will continue its THC moratorium compliance checks.

8. NEW BUSINESS

A. Concurrent Detachment and Annexation of Certain Property to the City of Mahtomedi

City Attorney Gilchrist presented a proposed concurrent detachment and annexation of property from the City of White Bear Lake to the City of Mahtomedi. The request was initiated by Mahtomedi staff to annex a 140-foot-wide strip of property. The property, located near Wildwood Road, is approximately 1.36 acres and is almost completely surrounded by Mahtomedi. For general information on the process, he explained that changing boundaries between cities involves concurrent detachment and annexation, which differs from a city annexing township property. Gilchrist said Mahtomedi staff reached out to the owners of the properties, who shared no opposition to the shift. Mahtomedi's City Council approved the same resolution that was being presented. As part of the resolution, Mahtomedi will be responsible for the preparation and filing of the resolution and boundary maps with the appropriate entities. Mayor Louismet inquired about tax revenue loss with the property. City Manager Crawford said the City would lose the tax revenue from the property, but reported it is not significant. Utilities will still be billed for the property. She foresees the shift will be beneficial long-term for economic development in the area.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Engstran**, to approve **Res. No. 13176** approving the concurrent detachment and annexation of the 1.36 acre-property from White Bear Lake for annexation into Mahtomedi. Motion carried unanimously.

9. DISCUSSION

Nothing scheduled.

10. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Crawford shared information for two events, the Police Department Easter Egg Hunt at Podvin Park and a ribbon cutting for Cajeta Coffee at 2179 4th Street.


12. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Engstran**, seconded by Councilmember **Walsh** to adjourn the regular meeting at 9:21 p.m. Motion carried unanimously.



Dan Louismet, Mayor

ATTEST:



Caley Longendyke, City Clerk