



**MINUTES  
REGULAR MEETING OF THE CITY COUNCIL  
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA  
TUESDAY, SEPTEMBER 12, 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, Police Chief Dale Hager, Community Development Director Jason Lindahl, 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 Regular City Council Meeting on August 22, 2023

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

**3. APPROVAL OF THE AGENDA**

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

**4. CONSENT AGENDA**

- A. Accept minutes: July White Bear Lake Conservation District, July Environmental Advisory Commission, July Park Advisory Commission, August Planning Commission
- B. Resolution approving a refuse and recyclables collectors license for USAgain LLC **Res. No. 13240**
- C. Resolution approving a special event application for White Bear Lake Main Street Inc.'s Fall Festival **Res. No. 13241**
- D. Resolution granting a variance at 4669 Lake Ave **Res. No. 13242**
- E. Resolution granting a variance for 2175 Gardenette Ave **Res. No. 13243**
- F. Resolution authorizing a site visit confirmation agreement with Mark and LuAnn Peterson **Res. No. 13244**

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

**5. VISITORS AND PRESENTATIONS**

A. Swear-in of Chief of Police

City Manager Crawford introduced Dale Hager, former administrative police captain, who was promoted to chief of police on August 28, 2023. Chief Hager was sworn in and given the Oath of

Service. He gave a speech following his swearing in and thanked the Mayor and Council for the opportunity to serve as White Bear Lake's next chief of police.

#### B. Constitution Week Proclamation

Mayor Louismet read a proclamation declaring September 18-22, 2023 as Constitution Week.

### 6. PUBLIC HEARINGS

#### A. Second reading of an ordinance prohibiting the use of cannabis products in public places

At the August 22, 2023 City Council meeting, City Manager Crawford explained that local units of government may adopt an ordinance prohibiting the use of cannabis in public spaces, pursuant to Minnesota State Statutes 152.0263, Subd. 5. City Manager Crawford explained that use of cannabis is prohibited where smoking is prohibited under the MN Clean Indoor Air Act, but there is not a general prohibition on use in public spaces. City administration is proposing an ordinance that would prohibit the use of cannabis products in public places, which includes any park, right-of-way and city-owned parking lot.

Councilmember Edberg was supportive of the prohibition of cannabis in public places, but asked how it compared to use of tobacco products in public places. City Attorney Gilchrist pointed out that the cannabis prohibition in public places is more aligned with liquor, because of the intoxicating effects and the unlawful act of carrying an open container in public places. He also clarified that the proposed ordinance is more lenient compared to what the City could've defined as a public place, based on Minnesota State Statutes, Section 152.0263, Subd. 5.

Mayor Louismet opened up the public hearing at 7:20 p.m. There being no comment, the public hearing was closed. Councilmember Edberg encouraged more discussion about the City creating consistent policies between tobacco, liquor and cannabis. Mayor Louismet recognized the intoxicating effects between liquor and cannabis, but was not opposed to better aligning consistent practices. Councilmember Walsh is in favor of how the proposed ordinance is presented, and also likened the intoxicating effects of cannabis to alcohol. He noted that cannabis legislation is new in Minnesota, and it would be best to start slow. He thought the proposed ordinance would be a useful tool for police officers, and is a good start. Councilmember Jones was in favor of the proposed ordinance and said any discussion about tobacco in public places needs to be a separate conversation. Councilmember Hughes was in agreement that use of cannabis in public places should be more aligned with liquor policies.

It was moved by Councilmember **Jones**, seconded by Councilmember **Walsh**, to approve **Ord. No. 23-09-2068**, an ordinance amending the Municipal Code to prohibit the use of cannabis products in public places. Motion carried unanimously.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Hughes**, to approve **Res. No. 13245** approving summary publication of an ordinance amending the Municipal Code to prohibit the use of cannabis products in public places. Motion carried unanimously.

#### B. Second reading of an ordinance amending the Fee Schedule

At the August 22, 2023 regular meeting, the Council approved Ordinance No. 23-08-2067, an ordinance requiring licensing and imposing regulations on the retail sale of edible cannabinoid products. Following the approval, City Manager Crawford presented a first reading of an ordinance amending the Fee Schedule to include associated fees of the approved ordinance. The fees include application, background investigation, and administrative offenses. City Manager Crawford conducted the second reading of the ordinance. She noted an additional administrative offense fee for cannabis use in a public place, directly in response to the Council just passing Ord. No. 23-09-2068, an ordinance amending the Municipal Code to prohibit the use of cannabis products in public places. Mayor Louismet asked how the fees are determined and City Manager Crawford explained they are comparative to tobacco-related fees and would cover a reasonable amount of time for staff to process the applications and offenses. She reminded Council that they also have an annual opportunity to amend the Fee Schedule if they believe something should be adjusted.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Jones**, to approve **Ord. No. 23-09-2069**, an ordinance amending the 2023 Fee Schedule to add fees relating to edible cannabinoid products. Motion carried unanimously.

## 7. UNFINISHED BUSINESS

- A. Second reading of an ordinance amending zoning regulations regarding tobacco and cannabis uses

At the August 8 City Council meeting, Community Development Director Lindahl presented the first reading of an ordinance that would amend zoning regulations as it relates to tobacco and cannabis uses. The zoning code text amendment, which was initiated by staff at the direction of Council, would create two new uses, Tobacco Products Shops and Cannabis Retailers. He summarized the analysis of the zoning text amendment as it relates to the 2040 Comprehensive Plan, present and future land uses, and zoning standards. City staff concluded that B-4, General Business District, is the most appropriate district to locate these uses. Buffers would be applied so that the businesses are not within 1,000 feet of a school or 500 feet of a daycare, residential treatment facility or a public park with amenities regularly used by minors. The existing six Tobacco Products Shops are currently not in the B-4 zoning district, so they would become legal non-conforming uses, or “grandfathered.” Sales of lower-potency hemp products at these businesses will also be allowed.

Two ordinance amendment options were presented, with “Option A” restricting tobacco product shops, cannabis businesses, including businesses selling lower-potency hemp products, to the B-4, General Business District. “Option B” proposes an additional land use for edible cannabinoid businesses, in other words businesses selling lower-potency hemp products. This option separates the sale of lower-potency hemp products from the definition of cannabis business and provides more flexibility on where businesses can sell these products.

Councilmember Jones questioned the more restrictive zoning on where cannabis could be sold (B-4), compared to where intoxicating liquor can be sold in liquor stores (B-2, B-3, B-4). Director Lindahl summarized the different zoning districts and how these types of businesses best fit, but

also referenced State Statutes where it outlines buffer zones around schools, day cares and other facilities. City Attorney Gilchrist clarified that cities aren't required to implement those buffers. Councilmember Walsh showed support for restricting cannabis businesses to B-4. For lower-potency hemp products, he shared some concern for how widespread they would be with Option B. Councilmember Edberg questioned why cannabis is compared to liquor based on the intoxicating effects, but for zoning, it is aligned with tobacco. He encouraged more consistency for policies and procedures. He pointed out that there would be limited location options for a businessperson to choose. Councilmember Jones and Councilmember Edberg wondered about daycares opening within buffers of cannabis businesses or businesses selling lower-potency hemp edibles after the business has already opened. Director Lindahl clarified that a daycare can open within the buffer zone after the cannabis business is established. Councilmember Jones posed the question about the City opening up and operating a cannabis business, which would create a revenue source.

In regards to taking timely action, City Attorney Gilchrist advised the Council to differentiate between cannabis businesses (dispensaries) and businesses selling lower-potency hemp products (edibles), because the City's moratorium prohibiting the sale of edible cannabinoid products ends September 27, 2023, and they need to establish zoning. Councilmember Walsh acknowledged that there are inconsistencies between zoning for liquor and cannabis, because cannabis is new and liquor has been long established. He proposed Option B with an amendment striking the eligibility requirement that the business needs a tobacco license, in other words the products could only be sold in establishments with off-sale and on-sale liquor licenses. City Attorney Gilchrist reminded Council that they approved a licensing structure ordinance for businesses who have an off-sale liquor, on-sale liquor or a tobacco license. Councilmember Jones referred to an earlier comparison of lower-potency hemp products being like 3.2 malt liquor, where it's available more widespread in convenience stores and gas stations because of its lower intoxicating effects. He was supportive of the product being available at similar locations, and reminded Council that it is a legal product. There was further discussion among the Council on comparing lower-potency hemp products and 3.2 malt liquor. Mayor Louismet reminded Council how difficult it was to determine exactly how much THC was in a package of THC gummies when they were determining if a business was in violation of the moratorium. He was in favor of being more restrictive with where the products can be sold, and would be ok with amending the licensing ordinance to limit license eligibility to just liquor license holders. Councilmember Edberg expressed concern for making a decision when there is still a lot of conversation to be had.

City Attorney Gilchrist provided options for Council on how to move forward, but shared City Manager Crawford's recommendation to at least take action on zoning for tobacco. Councilmember Hughes pointed out that the Council approved an amended tobacco ordinance, which allows tobacco products shops to sell edible cannabinoid products. Councilmember Walsh explained that he thought Option A was too restrictive, because on-sale liquor license establishments should be able to sell THC beverages, but also felt Option B was too flexible. He shared his thoughts about cannabis in general and is not in favor of the products being sold in the city. He conveyed that he wants to restrict it as much as possible, as allowable under law, for the sake of public safety and health. Councilmember Edberg said it should be a matter of personal choice for a legal product and said limiting the sale of the products won't prevent

people from getting the products in neighboring cities. He agreed with the direction of the city attorney to delay the decision in zoning cannabis businesses, and focus on zoning of businesses selling lower-potency hemp products. Councilmember Walsh put emphasis on Council making decisions for the City they represent, as they're allowed to do as the local authority, and deciding what types of products are made available.

Councilmember Jones made a motion to adopt Option B, but removing Article II to postpone the discussion on zoning for cannabis-related businesses, therefore only passing zoning for tobacco products shops. He shared his thoughts that it's hypocritical to prohibit a cannabis business from a strip mall where a liquor store and tobacco products shop presently exist. There was discussion among the Council on what action, if any, should be taken. City Attorney Gilchrist clarified that the Council can't table only a portion of an ordinance. Councilmember Jones rescinded his motion. After more discussion on next steps, it was determined to table the entire ordinance to continue the discussion at the next meeting on September 26, and be able to adopt it in whole, and in time for the expiration of the moratorium prohibiting the sale of edible cannabinoid products. Councilmember Jones added a note that he will show support for allowing more flexibility to offer edible cannabinoid products. He acknowledged the concern of the accuracy of testing products but mentioned the state's authority for that responsibility.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Jones**, to table the proposed ordinance to the September 26 regular Council meeting. Motion carried 3-2, with Councilmembers Edberg, Jones and Walsh voting in support, and Councilmembers Engstran and Hughes voting in opposition. City Manager Crawford noted that there was no clear consensus from Council on changes to the ordinance, therefore, staff will bring back the ordinance options as currently proposed for its third reading.

## 8. NEW BUSINESS

### A. 2024 Preliminary Budget and Tax Levy

City Manager Crawford introduced the 2024 preliminary budget and tax levy. She opened the presentation by explaining what it takes to build a budget, likening the process to building a sailboat, where each part of the boat (or department of the City) has its own importance and is needed to keep the boat whole. Each budget cycle allows for maintenance of each part to keep the boat operating. She reviewed information on the 2023 revised budget, which was balanced by using funds from higher year-to-date revenues and multiple position vacancies, instead of the need for unrestricted surplus cash as originally planned. She said the preliminary revised budget projects a surplus of over \$55,000. City Manager Crawford explained that federal aid during the COVID pandemic was relied upon to keep property taxes low, but the conclusion of the aid shifts the burden to tax and non-tax revenues. In general, expenditures are increasing faster than revenues, due to increased equipment and supplies costs, growing the Fire Department, and personnel costs. She emphasized that future budgets will not be able to rely on surplus cash and that the Council either needs to increase property taxes, reduce services, or find a way to generate additional non-tax revenues.

For the 2024 preliminary budget presentation, City Manager Crawford reviewed a list of significant revenue and expenditure changes to the budget. When sharing about local

government aid (LGA) and the City's allocation, she explained the importance of recognizing that it may not be a guaranteed revenue source. She reported that the City will receive a one-time payment of approximately \$1 million from the state for Public Safety LGA. She shared a proposal which will assign \$948,500 of the funds for operating and capital expenditures and recommends holding \$148,439 until further analysis of needs. She reviewed a list of the expenditures that would be covered by the LGA funds.

City Manager Crawford stated the preliminary tax levy reflects an increase to the General Fund of approximately \$1.7 million, or 17.02%, and an increase of \$551,000, or 5.53%, to the Public Safety Facility Project Debt Service, for a total levy increase of approximately \$2.2 million, or 22.55%. The use of LGA funds will offset the tax levy increase and the tax capacity rate related to this levy is 27.755%. The City will maintain a fund balance that is within the balance range recommended by City Council policy. She said the median-value home of \$312,100 would pay City taxes in the amount of \$840.70, and she shared a breakdown of the funded areas, including police and fire services, and maintenance of parks, streets, and lighting. Compared to similar-sized metropolitan cities, White Bear Lake continues to have a significantly smaller tax levy than most. The Council will hold the required truth-in-taxation hearing and adopt the final tax levy and budget at the December 12 regular meeting.

Councilmember Walsh addressed the \$670,000 unrestricted surplus cash that would've been used to balance the 2023 budget, if not for the unfilled vacancies and higher year-to-date revenues. When asked what happens to the surplus cash, City Manager Crawford explained that the City keeps those funds in the fund balance. She explained it is not a sustainable budget practice to rely on fund balances as an available revenue source year after year. She noted that the preliminary budget for 2024 is balanced without the use of fund balance. She recapped a summary of the August Council work session, explaining that staff proposed using more LGA towards capital expenditures and less towards the General Fund, but it was the consensus of those present to use more LGA, while it's still available from the state, towards the General Fund and less towards capital expenditures. She said staff revised the budget in response to Council's direction. Between the two options, the tax levy would not be impacted.

Regarding Public Safety LGA, Councilmember Walsh asked if the LGA funds would go towards new expenditures that the City wouldn't otherwise have been able to afford, or if the funds would supplant existing expenditures. City Manager Crawford pointed out the new one-time expenditures that the funds will cover and some that are necessary with or without LGA funds, like one of the additional firefighter/paramedic positions. LGA funds will mostly be used to offset existing expenditures. Any ongoing expenditures, like the additional firefighter/paramedic, will have to be worked into the General Fund budget starting in 2025. Councilmember Jones shared his understanding that some Fire Department expenditures were supplemented by federal aid during the pandemic, but have now shifted to the general fund. City Manager Crawford confirmed and also noted that those expenditures are growing. Councilmember Edberg provided clarification to an earlier comment about using the fund balance as a revenue source, emphasizing the importance of maintaining a healthy fund balance, relative to an increasing budget, and the need for more revenue to cover increasing expenditures as state and federal aid depletes, and how that will eventually impact tax payers.



Councilmember Walsh asked for clarification on the Ambulance Fund. Finance Director Kindsvater shared that the fund needs assistance, noting that 75% of patients are covered by Medicare / Medicaid or other assistance programs, which limits fund collections. She said the goal is to recoup costs to support the operational and capital expenditures of the ambulance service. She reported that the revenues coming in, approximately \$2.3 million, weren't covering the expenditures totaling \$3 million. Additional revenue sources to help balance the difference include \$159,000 of projected fund balance for 2024 and federal aid. City Manager Crawford answered questions about the expenses associated with emerald ash borer treatment, a \$3 million expenditure that will be spread out over an eight-year period. The City is applying for multiple state grants totaling \$500,000 dollars.

Councilmember Jones shared his experience being on the Council and going through the budget process. He referenced the increasing Fire Department costs over time, such as infrastructure and expenditures for full-time staff instead of paid on-call staff, and affirmed that City taxes didn't keep pace. There was thorough discussion on interest revenue that the City used to receive in abundance which has decreased over time. Councilmember Edberg encouraged more conversation about the long-lasting value and better-quality services provided to the community instead of focusing on cost; for example, there has been a decrease in sewer line breaks due to improved repair resources. Councilmember Walsh recommended that the Council, while still acknowledging past history, focus on the future and how to budget for increasing costs and monitor its debt service fund. Councilmember Jones made comment about prioritizing City needs and, like Councilmember Walsh, is open to hearing from constituents on what services they don't want, indicating that there isn't room in the budget to cut.

It was moved by Councilmember **Jones**, seconded by Councilmember **Edberg**, to approve **Res. No. 13246** approving the Preliminary 2023 Tax Levy Collectible in 2024. Motion carried unanimously.

## 9. DISCUSSION

Nothing scheduled.

## 10. COMMUNICATIONS FROM THE CITY MANAGER

There were no announcements.

## 11. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Engstran**, seconded by Councilmember **Hughes**, to adjourn the regular meeting at 10:06 p.m. Motion carried unanimously.

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Dan Louismet, Mayor

**ATTEST:**

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Caley Longendyke, City Clerk