

**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, SEPTEMBER 25, 2018
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. Councilmembers Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones and Bill Walsh in attendance. Staff members present were City Manager Ellen Hiniker, Assistant City Manager Rick Juba, Community Development Director Anne Kane, Building Official Ben Eggan, City Engineer Mark Burch, Assistant City Engineer Jesse Farrell, Assistant Finance Director Kerri Kindsvater, City Clerk Kara Coustry and City Attorney Andy Pratt.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

It was moved by Councilmember **Edberg** seconded by Councilmember **Biehn**, to approve the Minutes of the Regular City Council Meeting on September 11, 2018.

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

City Manager Hiniker added HVAC system for the Armory as 9C.

It was moved by Councilmember **Edberg** seconded by Councilmember **Jones**, to approve the agenda as amended.

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

A. Mark Burch's retirement recognition

City Manager Ellen Hiniker, PW Superintendent Dan Pawlenty, former City Manager Mark Sather and Mayor Jo Emerson all thanked Mark Burch for 30 years of dedicated service to the City of White Bear Lake. Mayor Emerson presented the bear plaque in recognition of Mark's many years of service as the City's Public Works Director. Mark's wife Anna and three daughters Laura, Sara, Mary with husband Matt attended.

B. White Bear Lake Hockey Association

Kevin McFarlane thanked the City Council for supporting the Sports Center Renovation project and presented the City with \$500,000 as down payment from the White Bear Lake Hockey Association. He mentioned the grand reopening on Saturday from 1 p.m. – 9:00 p.m.

5. PUBLIC HEARINGS

A. Resolution adopting an assessment roll for 2018 Mill and Overlay Project (City Project Nos: 18-13)

City Engineer Burch stated a public hearing is required for consideration of assessment rolls for the 2018 Mill and Overlay Project, the 2018 Street Reconstruction Project and the Centerville Road Project. He added this is the last step in the process as stipulated in State Statute 429 related to City assessment of property. Official notice was sent to the properties that are affected by these assessments. He added that all three of these projects are complete.

City Engineer Burch stated residents can appeal the assessment by written statement tonight and then filing action in District Court within 30 days of this meeting. He mentioned that the appraisal reports adhere to the assessment rates that were set in spring 2018 and reflect 1/3 of the cost of the project that is assessed to the property owner per the City's assessment policy. The Finance Department set the interest rate of 5.25% with mill and overlay assessment repayment in 10 years and street reconstruction assessment repayment over 15 years. He mentioned that residents may seek senior deferment or hardship deferment by contacting the Engineering Department.

Mayor Emerson opened the Public Hearing at 7:47 p.m. As there was no public comment, Mayor Emerson closed the Public Hearing at 7:47 p.m.

It was moved by Councilmember **Engstran** seconded by Councilmember **Walsh**, to approve **Resolution No. 12266** adopting an assessment roll for 2018 Mill and Overlay Project (City Project Nos: 18-13).

Motion carried unanimously.

B. Resolution adopting an assessment roll for 2018 Street Reconstruction Project (City Project Nos: 17-06, 18-01, 18-06)

Mayor Emerson opened the Public Hearing at 7:48 p.m.

Gary Wiederhold at 4310 Old White Bear Avenue read a note written by his wife, Deborah. The note stated residents were ignored when asked to have the sidewalk relocated to the other side of the road. Residents also endured months of construction and lost mail delivery, which is unacceptable.

Mr. Burch responded that after much discussion about the location of the trail, it was placed on the east side of the road as a continuation to the existing trail. He echoed frustrations of the residents related to mail service. Mr. Burch stated that the Post Office made a commitment to deliver mail under the current design. He said staff continues to work on this issue daily. Ms. Hiniker explained that temporary mailboxes are up until this issue is resolved.

Matt Zeller at 4959 Morehead Avenue stated that the work is beautiful. He lives where 10th and Morehead dead-end where the railroad used to go. He stated his lot has virtually no front footage and there is no on-street parking. He does not believe the use of half of the normal lot width 80/2 or 40 feet is a fair assessment for his property. He also stated there is no storm sewer benefit to his lot, even though his assessment is among the top five in the neighborhood. He is paying a large storm sewer assessment

for a pipe that has been in place for decades.

Mr. Burch stated that standard City frontage (80 feet) is typically applied to irregular shaped lots, such as cul-de-sac properties, which are pie-shaped in nature. In this case, the assessor recommended using half of the standard City frontage (40 feet) for the assessment. Storm sewer assessments are based on the area (lot size). He stated the benefit in this case is that water enters the storm sewer and is carried away in that part of the City.

Doug Bartolomeo lives at 2287 8th Street on a corner lot adjacent to the reconstructed alley for which he was assessed \$2200. As he had mentioned during the March Council meeting, he had been told by the City 22 years ago that he did not have rights to the alley. He stated there is inequity in access to the alleyway, in which his neighbors who access it daily are assessed the same amount as the corner lots that do not access the alleyway at all. He mentioned that he derives no direct benefit. He disagrees with the County Assessor's consideration of a future benefit as assessable. He asked what conversations have transpired about the alleyway assessment policy since March.

Mr. Burch explained that conversations have happened during public information meetings and stated that Mr. Bartolomeo has been consistent in his concern. He requested that the appraisers revisit this proposed assessment. They reaffirmed the assessment and determined a benefit to the property rather than its current use.

Mr. Bartolomeo asked the Council to consider the equitability of the assessment to the corner lots versus the middle-line lots whose occupants derive immediate benefit, driving on it every day. He stated, the alleyway is just a piece of scenery and he should not be assessed as he derives no benefit from it. If he is to be assessed, he believes that there should be a hierarchy of assessments as primary and secondary for a more equitable distribution of the load to those who use it every day.

Mayor Emerson stated that if the City is telling Mr. Bartolomeo that he has no rights to the alleyway, he should not be assessed for it. Community Development Director Kane clarified that the current zoning regulation that pertains to corner lots on an alley actually requires that new construction direct driveways to the alley. She added, there is a 20-foot setback if the garage door faces the alleyway.

Councilmember Jones clarified that if Mr. Bartolomeo does not have access to his alley, then there should be no assessment, but if he does have access, then he agrees with the assessment. Councilmember Biehn expressed the same sentiment and asked staff to research his rights to use the alleyway.

Elizabeth Casper at 2286 11th Street spoke and stated she is also representing Betty Felix of 4996 Stewart Street. She expressed issues with the alleyway assessment as they do not access the alley and could not turn the garage to access it because there is not enough room. She mentioned a few problems in her landscaping because of the new sidewalk that still need to be addressed in addition to equipment and billboards that need still need to be cleaned up in the area.

Mr. Burch acknowledged there is still restoration seeding that needs to occur, which should happen quickly. He stated there are still holes that need to be filled as part of the dewatering process and other clean-up to the area that the contractor will address.

John and Lynn Walker of 4915 Morehead Avenue mentioned that his colored sidewalk is now gray and slightly crooked. He would like to know what consideration the City will provide and is open to discussing a resolution. He also mentioned that his rain garden fills up and reaches the porch before draining. His front yard and his neighbor's is swampy after the recent rain, but his rain garden drains properly within 24 hours. He also mentioned there is considerable washout and rutting that will ultimately destroy the new alleyway if not addressed. Mr. Burch agreed to check those areas and fix those issues.

Susan Brewer at 2298 11th Street explained there are many issues with the water coming in from both sides and along the front of her property and ponding up to eight inches in her yard. Her property has sinkholes that need to be fixed. She mentioned that she did have to pay out of pocket to repair her stamped driveway and that large mushrooms are growing in her yard for the first time.

City Engineer Burch explained that they are monitoring the water collection on Ms. Brewer's yard and will continue to work to address the drainage issues. He mentioned it may be as simple as putting in a catch basin, but they would like to continue to monitor the situation until spring before determining the best course of action.

There being no further public comment, Mayor Emerson closed the public hearing at 8:28 p.m. and brought it back to Council for discussion.

Councilmember Walsh mentioned he will vote for the project, but he still has concerns that some of the promises made are not yet fulfilled, specifically with mail delivery, the clean-up and other drainage issues.

It was moved by Councilmember **Walsh** seconded by Councilmember **Jones**, to approve **Resolution No. 12267** adopting an assessment roll for 2018 Street Reconstruction Project (City Project Nos: 17-06, 18-01, 18-06).

Councilmember Edberg stated the alley assessment policy is new and this is the first time it has been applied. He is unclear in his own mind whether this policy needs additional Council direction. Councilmember Walsh stated that if the appeals are not resolved, he would like to reserve the right to take additional policy action. Mayor Emerson agreed.

Councilmember Biehn stated that assessments are shared costs among all neighbors. He did not agree with assessing properties if the City says they have no rights to access the alley. But, he believes that if a property has access, even if they are not using it, it would be unfair to the neighbors not to assess all of the addresses having access. Councilmember Jones agreed.

Motion carried unanimously.

- C. Resolution adopting an assessment roll for Centerville Road Improvements (City Project No. 18-16)

Mayor Emerson opened the Public Hearing at 8:36 p.m.

There being no comment, Mayor Emerson closed the Public Hearing at 8:36 p.m.

Mayor Emerson thanked the developer for whom this project might never been

completed. She announced a ribbon cutting at Lunds & Byerlys on October 4th, at 5:30 with the store opening at 6:00 p.m.

The developer also thanked the City of White Bear Lake for coordinating the construction project.

It was moved by Councilmember **Jones** seconded by Councilmember **Biehn**, to approve **Resolution No. 12268** adopting an assessment roll for Centerville Road Improvements (City Project No. 18-16).

Motion carried unanimously.

6. LAND USE

Nothing scheduled

7. UNFINISHED BUSINESS

Nothing scheduled

8. ORDINANCES

- A. Second reading of an ordinance adopting the 2018 International Property Maintenance Code and deletion of White Bear Lake City Ordinance, Chapter 804 related to smoke detector requirements.

Ben Eggan, Building Official for White Bear Lake reviewed the timeline for the adoption of this code, in which the initial concept was brought to the Council in April. After receiving direction from Council to pursue a minimum property standards code for commercial properties, Mr. Eggan revised the International Property Maintenance Code (IPMC) to fit the needs of the City. After first reading on August 15, staff shared the proposed code with the White Bear Area Chamber of Commerce and the Downtown Group at the request of the City Council.

Mr. Eggan explained that staff fielded questions and held a Chamber-organized meeting to answer questions from community members. Most were concerned with how this code would affect their bottom line. He shared an email from Robert Djupstrom in overall support of the City's consideration of a minimum standards code, with specific support of snow removal requirements.

Mr. Eggan highlighted various chapters of the ordinance and explained this is a model code adopted by other area communities, that sets forth minimum standards for properties. He made it clear that existing buildings with non-conforming conditions, that do not create a life/health safety hazard, will be allowed to remain. Mr. Eggan noted this code has a provision for appeals, which was amended to match the appeal process in current Code 502 in place since 1992.

Councilmember Jones commended Ben and his staff for their ability to defuse issues in the community before they make the appeal process. He also pointed out that Ben is only creating more work for himself, on behalf of the betterment of the City.

Tom Snell, Executive Director of the White Bear Area Chamber of Commerce thanked

the City Council for reaching out to the business community. After hearing from the City, the Chamber mailed the Ordinance and notice of a meeting to discuss the Ordinance to 227 White Bear City Chamber members. Due to bad weather on September 20, 2018 (the date of the community meeting), several businesses could not attend to learn more. He asked the City to consider a two-week delay in the vote on this proposed Ordinance to allow more time for businesses to read and ask questions.

Councilmember Jones had no problem in delaying the vote, but he asked that Mr. Snell to also share the list of the cities who have already adopted the IPMC. Mr. Eggan also suggested reaching out to the Chamber of Commerce of some of the adopting cities to learn about the impact of adopting this code in their communities.

Councilmember Walsh stated he was concerned initially, but the key will be in the enforcement. We have heard assurances from staff about how this will be enforced, but there is also an appeal process in which Council becomes involved. He believes the code as it stands is written well, but it can be revisited and amended at any time going forward.

Mayor Emerson agreed with Councilmember Walsh and stated that the only people who will have issues with this code are the ones who have not kept their buildings in good repair.

Dale Grambush of 2415 Gisella Boulevard inquired as to the changes since first reading. Mr. Eggan clarified that the memo specifies the changes since first reading in which two small sections of the code were inadvertently left out during the reformatting process. Mr. Grambush stated that the option for mechanical ventilation was missing in the first code, but is present in this second version. He stated that is significant and if that change was missed, maybe something else was missed.

Mr. Grambush asked if the City planned to add staff to address the provisions of this ordinance. He pointed out the addition of the City's requirement for licensure of rental properties resulted in the City revising its 2017 budget for the addition of a rental housing specialist to oversee that new license. City Manager Hiniker explained that the rental housing specialist position resulted from a shuffling of responsibilities and a shift of FTE from the Fire Department to the Community Development Department. She clarified that the City has no intention to hire another staff person to oversee the added provisions of this proposed code.

Mr. Grambush pointed out that the code has been edited by staff and has likely been revised by each of the thirty adopting cities. He stated that Wikipedia shows there are a total of 218 cities in the Metropolitan area. Mr. Grambush believes this is a good code, but he does not agree with some of the edits that staff made, including the confusing numbering system that was applied.

Mr. Grambush did not agree with staff's revision of the appeal process, which removed the IPMC's creation of a citizen board to review an appeal. Under the proposed appeal process, the City Manager, then the City Council hears an appeal. He stated that he likes citizen input and suggested the Planning Commission might be part of a citizen review board. He prefers a citizen review board, especially dealing with commercial properties, due to their experience and training.

Mr. Grambush referenced code section 602.4, which regulates how warm every

workspace needs to be. He did not believe the building official was going to ensure a 65° temperature in a workable area, including a garage, within two feet of an exterior wall.

Mr. Grambush questioned why the section on carbon monoxide alarm and detection contains window egress information (705.3a). He also questioned why smoke detection, section b, wasn't covered in the smoke detection part of the code. Mr. Eggan explained he thought it made more sense to group these together as they only pertain to rental properties. Mr. Grambush suggested another title for this section that calls out rental property requirements in White Bear Lake for better transparency.

In reference to snow removal, Mr. Grambush asked whether the City will hold the same standards on public property as expected of commercial properties.

Brian Loss at 3664 Hazel Street asked how long the City has been looking at this code and if there were any delays up until this point. Mayor Emerson replied since April and there have been no delays. Mr. Loss stated it would be important to assess the degree of negative impact from other communities for those who are impacted by this. He did not see any additional burdens to delaying this another two weeks for multiple interested parties, and was not sure why the push to adopt this immediately. He encouraged the Council to delay the vote.

Mayor Emerson explained the City's normal process for adopting Ordinances is to have first reading, then wait a month to allow time for input before the second reading and adoption.

There being no further public comment, Mayor Emerson closed the public hearing at 9:23 p.m.

Councilmember Jones trusts Mr. Eggan's twenty years' experience as he is the one who has to explain it and enforce it. He did not have a problem with delaying the vote another two weeks, even though six weeks was actually allotted this time around.

Councilmember Biehn sees the necessity of this code and supports it but does not have an issue with delaying the vote. He saw the advantage of delaying the vote to allow more time for Ben to review and tweak the code and its numbering system.

Councilmember **Walsh** trusts the staff and would vote tonight, but there is no reason not to delay. He moved to table this for two weeks, seconded by Councilmember **Engstran**.

In response to Councilmember Jones, City Attorney Pratt stated that another public hearing would be at the discretion of the Chair.

Motion carried unanimously.

9. NEW BUSINESS

- A. Resolution supporting the nomination of Jo Emerson for the Board of Directors of the National League of Cities

Councilmember Edberg expressed his personal opinion that the community has been

incredibly well-served by the leadership provided by our Mayor both locally and statewide through the League of Minnesota Cities. He shared that the Mayor has a new opportunity for leadership on the National League of Cities. He forwarded a recommendation to adopt a resolution of support that gives Mayor Emerson a greater opportunity for being selected.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Walsh** to adopt **Resolution No. 12269** supporting the nomination of Jo Emerson for the Board of Directors of the National League of Cities.

Motion carried unanimously.

B. Resolution suspending massage therapy establishment and massage therapist licenses at White Orchid Spa

City Manager Hiniker referenced the resolution recommending suspension of the massage establishment license and all massage therapist licenses at White Orchid Spa. She explained this recommendation is being made pursuant Municipal Code 1127.11, Subd. 1, in which the licensee is not complying with the laws and ordinances that apply to public health, safety and morals.

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn** to adopt **Resolution No. 12270** suspending massage therapy establishment and massage therapist licenses at White Orchid Spa.

Motion carried unanimously.

C. Resolution supporting the Historical Society HVAC system

City Engineer Burch added this item to agenda this evening to support a grant received by the Historical Society. Mr. Burch stated the Historical Society stores many artifacts, but humidity control is needed to prevent degradation. He explained that the Historical Society first secured a \$7,000 grant to assess the need for an HVAC system. Then they obtained \$10,000 in grant funding, which they matched with \$13,000 from their own fundraising efforts to pay for an HVAC design.

Mr. Burch reported the Historical Society obtained another grant for \$10,000, matched with \$20,000 from continued fundraising for construction of the HVAC system. Mr. Burch estimates the project will cost about \$65,000, and relayed that the Historical Society is asking the City to fund the balance, approximately \$30,000 – \$35,000. He reported that \$10,000 in grant funding will expire this spring, so the City is asking for approval to seek bids and return them for Council's consideration on October 23rd.

City Manager Hiniker explained that the Historical Society certainly has an interest in an HVAC system, but any tenant in the Armory would benefit from air conditioning. She feels the City is fortunate to have a tenant that can contribute funding to this project at this time.

In response to Councilmember Walsh, City Manager Hiniker stated the money would be allocated as a 2019 budgetary item.

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran** to

adopt **Resolution No. 12271** ordering the project, approving the plans and ordering advertisement for bids for the HVAC improvements to the White Bear Lake Armory.

Motion carried unanimously.

City Engineer Burch added that the boiler in the Armory is failing. It was installed in early 1970 and the City has been keeping it going with preventative maintenance for several years. A boiler inspection today registered extremely high temperatures in the chimney, which can be dangerous. Mr. Burch stated this is because the heat exchange quit working. He stated the boiler will need to be replaced, which is anticipated to be \$60,000 – \$70,000, but bids will be sought for this work.

10. CONSENT

- A. Resolution designating polling places for all 2019 Elections. **Resolution No. 12272**
- B. Resolution accepting a donation from the White Bear Lake Hockey Association for the Sports Center renovation project. **Resolution No. 12273**

It was moved by Councilmember **Walsh** seconded by Councilmember **Biehn**, to approve the consent agenda as presented.

Motion carried unanimously.

11. DISCUSSION

- A. Summary of Ward 4 meeting regarding redevelopment at County Road E/Bellaire

Councilmember Edberg thanked the host, Redeemer Lutheran Church, particularly the custodian, Tom Larson, who was there for the evening on his own time. He also expressed appreciation for City staff who attended, including City Manager Ellen Hiniker, Community Development Director Anne Kane, Planning and Zoning Coordinator Sam Crosby and Housing and Economic Development Coordinator, Tracy Shimek from the Planning Department, as well as Councilmember Walsh. He also thanked the approximately 60 citizen attendees for respectful, civil conversation.

Councilmember Edberg highlighted four over-arching take homes from the meeting:

- Recognition this is a long-standing issue spanning 14 years. This particular intersection has been challenged by a retail environment and business model that do not exist anymore. To some extent, he believes this is failure of the free market system, that these businesses were not able to be successful. He stated at some point the City or the community might need to step in where the private sector has not been able to resolve these vacant corners.
- While all four corners are zoned commercial, perhaps zoning should be changed to accommodate housing options on those sites. Councilmember Edberg stated that those in attendance were overall in support of rezoning to consider alternative options other than commercial enterprise on these corners.
- Data including the cost of acquisition (approximately 10-15% increase of the City's tax levy) coupled with the taxable value of these properties helped people to make connections between what they thought they might want, and the implications of that for total expenditure and taxes. Councilmember Edberg relayed that future related conversations should include this type of analysis for folks to contemplate.

- What is in it for us? If a proactive public investment is to be made, it is not enough just to get rid of blight. There seems to be a desire for some type of public benefit, perhaps to an underserved population. Councilmember Edberg believes more thought should be given to what any public investment is intended to achieve.

Councilmember Walsh reported that the meeting was well attended and the conversation flowed better because the emotions were not as strong. He pointed out that the data was helpful to provide context, but there is still opposition to having a development in “my back yard”.

Community Development Director Kane directed people to the website for a copy of the PowerPoint and community notes from the meeting.

12. COMMUNICATIONS FROM THE CITY MANAGER

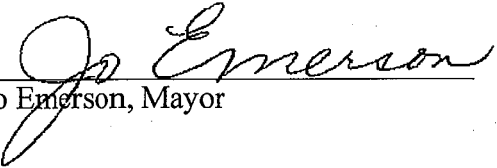
- A contested case pre-hearing conference with the DNR on November 8 for the appealed amendments of the water appropriation permits.
- Climate-Smart Municipalities Initiatives – Sabine Engel, Executive Director of International Partnerships with the Institute on the Environment at the University of Minnesota approached the City for the possibility of pairing with a German City to exchange information related to energy conservation initiatives. Additional grant funding added two more partner cities, one being the City of White Bear Lake. Council is also invited to dinner on Monday, October 1 to learn more about the program.
- Councilmember Walsh mentioned the Taste of Northeast, October 11 at Vadnais Heights Commons. Tickets for this Northeast Youth and Family Services fundraiser are \$30 for a variety of great food, a silent auction and music. The event starts at 5:30 p.m. with a VIP reception at 5:00 p.m.
- Engineering Updates – Mark Burch, City Engineer
 - The 80-foot flagpole goes up tomorrow at 1:00 p.m.
 - Mr. Burch thanked the Mayor, Council and co-workers.
- Community Development Updates – Anne Kane, Director
 - Tracy Shimek is the new Housing and Economic Development Coordinator.
 - Lunds & Byerlys Grand Opening on October 4.
 - Bruce Vento Regional Trail Extension meetings, October 4 and October 25. Both meetings will be in the Public Safety Training Room.
- Mayor Emerson attended the Women Mayors of America White House Conference in Washington DC. She heard from the Vice President and the Second Lady about their program to help military spouses; Secretary of Education spoke on the need to change the way we educate and the need for more vocational programs; SBA Administrator talked about disaster assistance and the need for educators and companies to work together toward workforce readiness; Economic Advisor spoke on the tax bill; Kellyanne Conway about the opioid crisis. There were 90 Mayors from 27 states, with five from MN including Morehead, Woodbury, Maplewood and Northfield.
- Mayor Emerson stated that White Bear Lake finished 9th in the country for cities

with population \$20,000 - \$30,000 in the Mayor's Water Challenge.

- Mayor Emerson mentioned that MN Monthly has selected White Bear Lake as one of the top ten finalists in the Best MN Town contest. Votes are accepted through October 12 at bestmntown.com.

13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Edberg** seconded by Councilmember **Walsh** to adjourn the regular meeting at **10:06 p.m.**


Jo Emerson, Mayor

ATTEST:


Kara Coustry, City Clerk