



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, NOVEMBER 13, 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 Manager Rick Juba, Community Development Director Anne Kane, Assistant City Engineer Jesse Farrell, Finance Director Don Rambow, Assistant Finance Director Kerri Kindsvater, City Clerk Kara Coustry and City Attorney Patrick Sweeney.

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 October 23, 2018.

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by Councilmember **Jones** seconded by Councilmember **Engstran**, to approve the agenda as presented.

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

A. Chief Julie Swanson – A Year in Review

Police Chief Julie Swanson provided a presentation to the Council highlighting significant outreach efforts made by the White Bear Lake Police Department in 2018.

In response to Councilmember Walsh's inquiry about body cameras, Chief Swanson mentioned there have been hic-ups as is often the case with new technology. She stated the officers like using the cameras and they have been helpful in changing people's behavior when they see they are being recorded. The data storage and request for data has been going well. Chief Swanson reported there have been glitches with the camera products but the vender has been highly responsive in providing ongoing support and training.

City Manager Hiniker took the opportunity to discuss amended evening coverage in the Public Safety building. Upon transferring dispatch duties to Ramsey County in May, the City retained one of its dispatchers for evening administrative coverage in the Public

Safety building. The former dispatcher has recently decided to seek other opportunities and will be leaving this position. Experience with the new model indicates evening coverage is no longer necessary, so Ms. Hiniker explained, the evening vacancy will not be filled. The Public Safety building has a phone in the vestibule, which connects people directly with dispatch for immediate assistance. CSO's, Officers and Firefighters are also present during desk hours.

Mayor Emerson thanked Chief Swanson and the Police Department for all the work they do.

5. PUBLIC HEARINGS

Nothing scheduled

6. LAND USE

A. Consent

1. Consideration of a Planning Commission recommendation regarding a request by Brian Bonin for a Conditional Use Permit and two Variances (Case No. 18-7-CUP & 18-17-V). **Resolution No. 12292**
2. Consideration of a Planning Commission recommendation regarding a request by Kim Koeppen for a Lot Recombination (Case No. 18-3-LS). **Resolution No. 12293**

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

Motion carried unanimously.

B. Non-Consent

Nothing scheduled

7. UNFINISHED BUSINESS

Nothing scheduled

8. ORDINANCES

A. First reading of an ordinance establishing 2019 annual fee and utility rate schedule

Councilmember Walsh addressed proposed sewer and water rate increases. He acknowledged there were long periods without increases and previous deficits in those accounts, but stated this is the third year the Council has been asked to increase rates. He recounted statements over the past two years, and again this year, indicating increases would catch the City up and create a cushion in water and sewer accounts going forward. Councilmember Walsh acknowledged recent water main breaks and suggested looking at what the Metropolitan Council is doing to control their sewer costs, which continue to rise for every municipality. He stated that every year there are property tax increases and sewer and water rate increases, which hit constituents hard.

City Manager Hiniker stated that increases in recent years have addressed deficit balances, but that increased operational costs resulting from Met Council rates increases and unanticipated water main breaks must be recovered through rate adjustments if the reserve balance is not sufficient.

Finance Director Rambow recounted in 2017 the City transferred money from the non-bonded fund to account for deficits in both water and sewer funds. He stated that raises to water and sewer fees were set to repay the non-bonded fund in 2018. The water fund anticipated a 75K annual cost for water main breaks. To date, the City has already spent \$150K on water main breaks and another one just occurred. He stated the 2019 proposed water increase is intended to repay \$125K that was transferred from the non-bonded fund in 2018 and stabilize the water fund account for December 31, 2018. Mr. Rambow reported that 75% of sewer rates reflect Metropolitan Council fees and their rates will increase 6% every year for the years to come.

Ms. Hiniker added that conservation efforts and a wet summer led to decreased water consumption, which is how revenues are generated and costs are recovered. Mr. Rambow expounded that as consumption declines; rates necessarily climb higher to recover revenue sufficient to maintain operations. He pointed out that White Bear does not yet charge a flat infrastructure fee as many other municipalities' have implemented to account for this continuing trend.

Councilmember Walsh inquired as to the status of the \$4 Lake Litigation Recovery fee while referring to one of his water bills. City Manager Hiniker confirmed the City is still incurring litigation costs in preparation for the appeal. Mr. Rambow stated the current fee generates about \$160,000 annually. At the end of 2017, the City's litigation cost totaled \$535,000. He pointed out that the City is on track to spend approximately \$105,000 in 2018 but is still adding to this expense. He said this fee will be around for several more years to fully recover this expense.

Councilmember Walsh was not supportive of the reasoning behind increasing park rental fees \$15-25, which pointed to fees charged by other nearby entities for park rentals. He stated that fees should be justified as cost recovery associated with clean-up, trash removal and police. City Manager Hiniker agreed to bring more justification at the next reading.

9. NEW BUSINESS

A. Resolution approving a lease agreement with Tally's Dockside for use of the Whitaker Street End

Last discussed on June 26, 2018, Ms. Hiniker reported on efforts to negotiate terms of a new lease with Tally's based on income appraisal for the fuel service portion of Tally's business. She reviewed property ownership and the history of the Whitaker Street end lease, which was formalized with Tally's in 1999 by the City Council because continued fuel service was viewed as a public interest.

In working with the appraiser and the Dehnerts, who own Tally's, Ms. Hiniker reviewed the assumptions (listed below), which led to recommendations (listed below) for assigning value to use of Whitaker Street end.

Assumptions:

- Continued presence of fuel service available on the lake for boaters;
- Rent/lease structure that acknowledges the value of public's right-of-way, balanced with reasonable expectations for a rate return on private enterprise;
- Removal of all structures, equipment and items from street end property not directly related to fuel services, (i.e. signage, porta-potties, shed, et. Al.);
- Use income approach in development of rent structure in consideration of fuel service only.

Recommendations:

- Permitted use for fuel service related structures, equipment, et al; removal of other structures, signs, et al
- Placement of fence around the tank to effectively block street view and as approved by the City shall be erected and maintained
- New lease effective January 1, 2019
- 20-year lease, may be terminated upon nine (9) months notice by action of the City Council for an alternative public purpose
- Increased insurance requirements:
 - Commercial General Liability to \$2,000,000 per occurrence
 - Pollution Liability policy - \$1,000,000 (gas leak clause also added)
 - Workers' Compensation policy \$1M/\$1M Part B coverage
- Rental 5% of gross income (annual fuel sales less cost of fuel)

Councilmember Walsh asked whether a fence around the tank was needed as it would further block the view to the lake. He suggested the tank be painted instead to be more visually appealing. Mayor Emerson said this part is negotiable.

Councilmember Biehn sought clarification regarding lease termination. He asked if the City wanted to redevelop that area, would that be considered a public use and therefore allow for the termination of the lease. Ms. Hiniker confirmed this.

Councilmember Walsh asked about the process involved with an annual audit going forward. City Manager Hiniker clarified that staff will review gas receipts and work with the fuel supplier to determine the fluctuating prices of gas throughout the year. He inquired as to added staff time. Ms. Hiniker stated that staff time working this process is minimal, although if staff were to incorporate expenses within a rental fee calculation, that would be more arduous.

In remembering back to Council's discussion, Councilmember Walsh recalled initial discussions about basing the rent price on the land appraisal, then gas revenue was added to the calculation. He was surprised there was no longer consideration for the value of the land or the income that could be derived from the land, but that only the gas revenue is being considered at this time. He pointed out that if another person rented that land, they could add slips to their operations, so the land has value.

Councilmember Jones pointed to permissible uses contained in the lease agreement, which spells out that this land may not be used for anything other than gas sales. Councilmember Walsh asked if there was value in keeping the land off the market.

City Manager Hiniker indicated that this lease was negotiated under the assumption that Council desired that fuel service be available on the lake for boaters. She stated that if Council had other ideas for the use of that land, those could be explored, but this

agreement was crafted with the understanding that gas sales would be the only permissible activity on the property.

Councilmember Edberg clarified the monthly rent was roughly \$112-\$188 and inquired as to current investment needed by the Dehnerts to maintain the gas tank. Ms. Hiniker explained there is \$36,000 investment in the fuel equipment needed to meet new requirements by the MPCA. Mr. Edberg clarified that is the debt being amortized over the 20-year life of the lease, which was confirmed.

Councilmember Edberg observed that fuel sales are much less profitable than at first glance and thanked the parties for bringing numbers to clarify the situation. He felt that the land appraisal and the income appraisal was helpful in triangulating and narrowing in on a formula that best fits the situation. He felt the percentage calculation was reasonable and more sense than a flat fee in this case, given the fluctuation between good years and bad and reiterated these numbers are relatively small. He also did not feel the assumptions applied to calculate a land value of \$125,000 were realistic.

Councilmember Walsh believes the value in Tally's business benefits from the Whitaker Street end property and proposes \$100 base rent in addition to a percent of gross gas sales. He also stated that this was a negotiation with the current leasee and in the absence of an RFP, the City does not know what other uses someone may have had for this land.

In response to Councilmember Edberg, Ms. Hiniker stated that the terms of the proposed lease contract are agreeable to the Dehnerts. Councilmember Edberg sought clarification on contract language related to payment of rent, which uncovered the need for revision to clarify that 5% of year-end gross fuel sales are payable by the December 1st of each year following the boating season.

Councilmember Edberg referred to the first appraisal report which assumed that the Tally's, given its proximity, was the only logical users of that land. He asked about uses apart from a City park. Ms. Hiniker stated that more docks could potentially be placed there and perhaps derive greater income.

Councilmember Jones supports not seeking an RFP at this time based on the fact that the City can opt out of this agreement for purposes of public use. He stated there is plenty of public access to the Lake and gas service is needed. He also acknowledged that the Dehnerts understand the fuel service business, as they have done it for over 20 years.

Councilmember Biehn stated that gas dispensed from a tank is safer and more environmentally sound than gas poured from a can.

Councilmember Walsh agrees there should be gas on the lake, but feels strongly there should be a monthly flat fee applied to the equation in addition to 5% of gross gas sales.

Mayor Emerson asked to have the email from she received from the Dehnerts on November 11, 2018 to be entered into the record, which was added to the Council packet for this meeting. In response to Councilmember Edberg's request for complete documentation, a copy of the PowerPoint will also added to the Council packet.

With a lease agreement modification to the rent payment section to reflect payment

following each boating season, no later than December 1st, it was moved by Councilmember **Jones**, seconded by Councilmember **Edberg** to adopt **Resolution No. 12294** approving a lease agreement with Tally's Dockside for use of the Whitaker Street End

Motion carried 3:2. Councilmember Walsh and Engstran nay.

B. Resolution approving professional service agreement with HKGi for work on the 2040 Comprehensive Plan

City Manager Hiniker forwarded staff's recommendation to enter into an agreement with HKGi for completion of the City's Comprehensive Plan. She stated that this consultant has extensive experience as well as access to data and software for mapping. She stated that much of the work has been completed by staff except formatting for readability and usability. Although the plan is 80-90% complete, staff time was redirected over the summer to handle other community development related initiatives that required attention.

Councilmember Edberg felt the hourly rate for this type of work was justified. He asked for an upper limit not to exceed \$20,000 a.

Councilmember Walsh expressed his disregard for the Comprehensive Plan, for the process and for the Metropolitan Council. He did not support this contract and preferred that staff simply push forward to create something that is passable.

Councilmember Jones asked if staff could get a "C" on this without the services of an outside agency. Ms. Hiniker stated it would take this service to get a "C" and estimated 200 hours would equate for an "A". He stated that by outsourcing this work, staff could continue to serve members of the community more closely.

Ms. Kane relayed it was initially staff's intention to hold the Comprehensive Plan close, but other commitments diverted staff attention. She expressed pride in the amount of work already completed by staff, interns and the Engineering Department. While this is hard to turn to someone else, she explained that a community the size of White Bear Lake could easily spend \$100,000 on producing such a plan. Ms. Kane also imparted that the Metropolitan Council declined issuance of an anticipated \$24,000 grant to the City of White Bear Lake and one other community.

Councilmember Walsh mentioned he has been on the Council for three years and has never met the City's representative from Metropolitan Council. He suggested Sandy Rummel be invited to attend a City Council meeting.

Councilmember Biehn appreciated the work that staff has completed to date. He mentioned they put a lot on staff who is only asking for assistance in completing this.

Ms. Kane explained that things are different in the Community Development Department as compared to 2008. She cited the increased level of development, redevelopment and building permits recently handled by staff. Ms. Kane also mentioned the extensive work staff has already presented to the Planning Commission, the Park Advisory Commission and the Environmental Advisory Commission on all aspects of the Comprehensive Plan: land use, housing, utilities, ground water, economic

competitiveness and sustainability.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Biehn** to adopt **Resolution No. 12295** approving professional service agreement with HKGi for work on the 2040 Comprehensive Plan

Motion carried 4:1. Councilmember Walsh nay.

10. CONSENT

- A. Acceptance of minutes from; September Environmental Commission; September White Bear Lake Conservation; October Planning Commission
- B. Resolution authorizing Score Grant funding allocation and application. **Resolution No. 12296**
- C. Resolution authorizing municipal consent of State issued Consumption and Display permit for Create Space, LLC. **Resolution No. 12297**
- D. Resolution acknowledging the Old White Bear Avenue Public Right-of-Way is under general obligation to function as a public multi-use trail. **Resolution No. 12298**
- E. Resolution approving a cooperative agreement with Ramsey County for county funding allocation towards the Centerville Road Improvement Project (City Project No. 18-16). **Resolution No. 12299**

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

Motion carried 4:1. Councilmember Walsh nay.

11. DISCUSSION

Nothing scheduled

12. COMMUNICATIONS FROM THE CITY MANAGER

- Commercial Shoot – Tomorrow in downtown White Bear Lake on Washington Avenue at Anchor Coffee. Ten stalls along Washington Avenue will be closed off from 10 am - 6 pm to allow for filming.
- Bus Rapid Transit - Staff continues to work with Rush Line Planning staff and other community members. Last Friday, one-on-ones were held with stakeholders with intention to better discern reasons for concern as well as to relay additional information and awareness of some of the issues. The business community, consisting of the Chamber, the Economic Development Corporation and Main Street the will meet in December to discuss Rush Line. Staff hopes to bring alternative locations for downtown stations to the Council in January. There will be additional outreach to the community again in the future, perhaps in the form of another open house.
- Soldiers Memorial Flagpole Project - Thanks to the efforts of the Lions Club and Foundation, through Lynn Farley, the flag rededication ceremony was held on Sunday.

This monument stands as a reminder for those who serve in the military as well as the dedicated efforts of volunteers in our community.

- Truth in Taxation Hearing - Will be held on November 27th to allow time for feedback prior to the Council's final consideration of the budget at its December 11th meeting.
- Work Sessions 2019 - Council was asked to provide dates they are not available for work sessions for planning purposes.
- Public Safety - Reported a busy weekend with 51 calls. There was a structure fire on Randy Avenue in the attic, but they will need to gut the whole house. There was also a structure fire in Dellwood.
- Community Development Director Kane shared that the Mayor and she attended the St. Regis Habitat for Humanity home dedication recently. A family of seven will be moving from a 2-bedroom apartment in St. Paul where they have been living since coming to the country 4 years ago.
- Assistant City Engineer Farrell shared that community meetings were held for 2019 Street Reconstruction projects, which will continue what was done last year in the old part of White Bear Lake and also on Garden Lane. Approximately 40 people were in attendance.
- Councilmember Edberg inquired as the continuation of street sweeping in the City. Mr. Farrell stated he would speak with Superintendent Pawlenty. He mentioned there may be time during an upcoming thaw to button things up related to street sweeping.
- Finance Director Rambow reported that the City has been approached by Kennedy and Gravens on behalf of the YMCA. The YMCA is looking to consolidate numerous outstanding bonds into one funding bond of conduit debt by utilizing the City's ability to sell tax exempt debt. Staff anticipates bringing this forward for Council consideration in December. The City would receive a small administrative fee for handling approximately their debt consolidation.

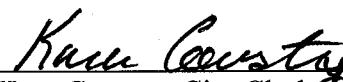
13. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember Jones seconded by Councilmember **Biehn** to adjourn the regular meeting at **9:12 p.m.**



Jo Emerson, Mayor

ATTEST:



Kara Coustry, City Clerk