



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, JANUARY 8, 2019
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Mayor Emerson called the meeting to order at 7:00 p.m. Councilmembers Doug Biehn, Kevin Edberg, Steven Engstran and Dan Jones in attendance. Councilmember Bill Walsh excused absence. Staff members present were City Manager Ellen Hiniker, Assistant City Manager Rick Juba, Finance Director Don Rambow, Assistant Finance Director Kerri Kindsvater, Public Works Director/City Engineer Paul Kauppi, City Clerk Kara Coustry and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

Minutes of the Regular City Council Meeting on December 11, 2018.

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

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

Mayor Emerson stated that 9H will be deleted as this item is also on the agenda as 7A.

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

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

A. Oath of Office

Chief Peterson introduced each of the following Fire Department employees and the city clerk administered the Oath of Office to: Trevor Baran, Chelsea Flores, Kurt Frison, Joseph Gibbs, Margaret Janssen, Neil Olness, Joshua Parrow, Timothy Rossbach, Regenea Schlichenmeyer, Joseph Selby, Matthew Stallings, Robert Weidman and Matthew Wenzel.

Mayor Emerson noted a Boy Scouts Troop in attendance and called them up for an introduction. Allen McCutchen with Troop 112 stated they are working on their merit badge for Citizen and Community.

5. PUBLIC HEARINGS

Nothing scheduled

6. LAND USE

Nothing scheduled

7. UNFINISHED BUSINESS

- A. Resolution approving and ratifying the legal services agreement for representation of stormwater sediments related to chemicals from coal tar sealants

City Manager Hiniker reported that the City Council held two closed sessions to discuss litigation related to coal tar sealants in City's waterways. She explained that coal tar sealants contain high levels of polycyclic aromatic hydrocarbons (PAHs), which are chemical compounds that form when coal is incompletely burned. PAHs are a serious environmental hazard. Since they do not break down easily, they can stay in the environment for extremely long periods of time. The refined coal tar products at issue are made from raw or crude coal tar – a toxic byproduct of coal coking. She explained that manufacturers market and sell their tars for use in sealants or coatings put down by paving companies and homeowners. Pavement sealants wear out after exposure to the elements, tires and snowplows, releasing small toxic particles containing PAHs and other chemicals from the refined coal tar into the environment. Ms. Hiniker stated that these toxic particles then run off into lakes and ponds where they are harmful to the environment and impose expensive cleanup costs.

Ms. Hiniker added that White Bear Lake was the fourth city in the nation, first in Minnesota, to ban the use and sale of coal tar-based sealcoats in 2010, followed by statewide legislation in 2013. The degradation of previously applied coal tar sealants continues to cause environmental harm. Ms. Hiniker noted the City has numerous stormwater receiving waters that have been collecting runoff sediments for 30-40 years, many of which are in need of dredging to ensure they continue to function properly. Sediments with higher concentrations of PAHs must be managed as hazardous waste, at least tripling the cost of disposal.

Ms. Hiniker reported that during the second closed session meeting, staff was directed to work with participating cities to finalize a legal services agreement. On Friday, December 28, 2018, lawsuits were filed by Plant and Mooty on behalf of Burnsville, Bloomington, Maple Grove, Eden Prairie, Minnetonka, White Bear Lake and Golden Valley, with more expected to follow.

Ms. Hiniker stated that through cost recovery litigation, participating cities are seeking reimbursement for the additional costs of increased testing of stormwater pond sediments, increased past disposal and expected increase in future disposal of sediments. As outlined in the attached agreement, litigation will be financed by the legal team. The Legal Services Agreement indicates the attorneys are paid a contingency fee calculated on the amount of the damages recovered, if any, and the City is not liable for any costs associated with outside legal services. Additionally, the Legal Services Agreement has a clause that permits the City to withdraw from the lawsuit at any time upon written notice, without compensatory obligations.

Councilmember Biehn had originally voted against making coal tar sealants illegal, mainly because he likes these initiatives to be statewide rather than local. Today, he is glad he was out-voted and offered his support.

It was moved by Councilmember **Biehn**, seconded by Councilmember **Jones**, to adopt **Resolution No. 12320** approving and ratifying the legal services agreement for representation of stormwater sediments related to chemicals from coal tar sealants.

Motion carried unanimously.

8. ORDINANCES

Nothing scheduled

9. NEW BUSINESS

- A. Resolution appointing City representatives to Ramsey County League of Local Governments, Ramsey County Dispatch Policy Committee, Vadnais Lake Area Water Management Organization, Rush Line Task Force and Northeast Youth and Family Services.

Mayor Emerson reviewed current designations and received consensus to retain the following 2018 appointments in 2019:

<u>Organization</u>	<u>Representative</u>	<u>Alternate</u>
Rush Line	Jo Emerson	Kevin Edberg
Ramsey County League of Local Governments	Doug Biehn	Steven Engstran
Vadnais Lake Area Water Management Organization	Dan Jones	Bill Walsh
Ramsey County Dispatch Policy Committee	Doug Biehn	Dan Jones
Northwest Youth and Family Services	Bill Walsh	n/a

It was moved by Councilmember **Biehn**, seconded by Councilmember **Engstran**, to adopt **Resolution No. 12321** appointing City representatives to various committees.

Motion carried unanimously.

- B. Resolution designating City Attorney – Prosecutor and Counselor for 2019

City Manager Hiniker reported that the City Charter assigns the responsibility for annual appointment of attorneys to the City Council. Prosecuting Attorney Robb Olson was appointed in 2017 by the City Council for a term of three years, expiring January 31, 2020. Since the Charter states that the City shall designate its attorneys at the first meeting January, an appointment resolution for 2019 has been established with the same payment terms as 2017.

Ms. Hiniker stated that the City’s current lead counsel is not seeking reappointment. An RFP for on-going legal services will be prepared for Council’s consideration at a future meeting; meanwhile, as discussed with the Council subcommittee, staff recommends the municipal law firm Kennedy & Graven be appointed for a six month period. Ms. Hiniker noted that Troy Gilchrist will serve as Lead Attorney and the firm is honoring it rates outlined in its 2017 proposal.

It was moved by Councilmember **Jones**, seconded by Councilmember **Edberg**, to adopt **Resolution No. 12322** designating City Attorney – Prosecutor.

Motion carried unanimously.

It was moved by Councilmember **Jones**, seconded by Councilmember **Edberg**, to adopt **Resolution No. 12323** designating City Attorney – Counselor.

Motion carried unanimously.

C. Resolution setting 2019 fees associated with the Right of Way Ordinance

City Engineer Kauppi reported that in January 2018, Council adopted a Right of Way Ordinance to manage utilities in the right of way. That ordinance set forth fees for 2018 and referenced future years' fees would be provided in the annual fee schedule ordinance. Mr Kauppi mentioned that due to transition in staff, these fees were not accounted for in the adoption of the 2019 fee schedule.

Mr. Kauppi explained there are two fee components. The excavation fee is recommended at \$200 to cover staff time required to review plans and inspect the site. The small cell wireless facility permit fee requires in-depth staff review for installation of small cell wireless facilities in City's right of way. These often require agreements and more staff time for processing. Mr. Kauppi stated the League of Minnesota Cities, through its review of federal and state legislation; recommend a permit fee of \$500 for the first five sites and \$100 for each additional site.

Councilmember Edberg inquired as to when the small cell fee is actually incurred and referenced the memo noting staff's time and expense incurred even if a permit is not issued. Mr. Kauppi responded the fee is collected at the time of application, however, there are conversations with staff in advance of a permit application to ensure a successful application. Councilmember Edberg explained these are large companies making significant use of public infrastructure and asked whether the City is taking all opportunities to fully recover its expenses.

Mr. Kauppi explained that staff is following the League of Minnesota the Cities recommendation for 2019 to avoid legal battles with large cell companies, but will track staff's actual time to handle and process these applications so there will be documentation for setting the most appropriate fee in the 2020 fee schedule ordinance.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Edberg**, to adopt **Resolution No. 12324** setting 2019 fees associated with the Right of Way Ordinance.

Motion carried unanimously.

D. Resolution naming the official newspaper to perform official publications

City Manager Hiniker reported that the White Bear Lake City Charter states that the City Council shall, at its first regular meeting in January, designate the City's official newspaper for publication of all notices required by the City's Charter. The White Bear Press meets all of the legal requirements for legal publications and is the only one which has a known office of issue within White Bear Lake. Therefore, according to State Statutes, Ms. Hiniker explained the White Bear Press is the newspaper which takes first priority to be designated as the official newspaper of the City of White Bear Lake.

Ms. Hiniker stated that the White Bear Press expressed interest continuing to serve as the official newspaper of the city. They propose a 5% increase in the cost of legal publications, which reflects a \$0.82 cent increase per column inch over 2018. She explained the increase is reflective

of some extraordinary increases in print prices experienced by Press Publications in 2018. Ms. Hiniker expressed appreciation for the newspaper's diligence in reporting and forwarded a recommendation to accept the White Bear Press as its official newspaper in 2019.

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn**, to adopt **Resolution No. 12325** naming the official newspaper to perform official publications.

Motion carried unanimously.

E. Resolution authorizing 2019 travel reimbursement amounts

Finance Director Rambow reported that the travel reimbursement program for 2019 remains virtually unchanged. Staff recommends adopting the federal reimbursement mileage rate of \$0.58 cents per mile, up from \$0.545 cents per mile. No changes are recommended to the meal reimbursement as it is extremely close to the State Administrative and Education program reimbursement.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones**, to adopt **Resolution No. 12326** authorizing 2019 travel reimbursement amounts.

Motion carried unanimously.

F. Resolution amending the Union contract with Law Enforcement Labor Services for White Bear Lake Police Department Sergeants (LELS)

Ms. Hiniker reported that staff and Law Enforcement Labor Services (LELS) Union representatives for Sergeants have reached a tentative agreement for a two-year contract effective through 2020. Union membership ratified the agreement, which would become final upon City Council approval.

Ms. Hiniker explained the insurance is in alignment with the approved 2019 contributions to the non-bargaining employees, and the approved labor contract with Public Works, the City's premium contributions have been adjusted to cover the cost of the increase in premiums to the City's overall health insurance program. She reported that the annual contributions to the employees' Health Savings Account (HSA) will be increased \$200 for employees on single HSA plans and \$400 for employees on family HSA plans, which is in line with other groups in the City. Ms. Hiniker noted that compensation for Sergeants is competitive with comparable cities and 3% increases for 2019 and 2020 mirrors other labor agreements within the City.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Engstran**, to adopt **Resolution No. 12327** amending the Union contract with Law Enforcement Labor Services for White Bear Lake Police Department Sergeants (LELS)

Motion carried. Councilmember Biehn abstained.

G. Resolution amending the Union contract with Minnesota Public Employers Association of Police Officers (MNPEA)

Ms. Hiniker reported that staff and Minnesota Public Employees Association (MNPEA) for Patrol Officers reached a tentative agreement for a two-year contract effective through 2020.

Union membership ratified the agreement, which would become final upon City Council approval.

Ms. Hiniker reported that insurance provision in this contract is recommended the same as approved for other labor groups and non-bargaining units in the City. Ms. Hiniker noted, to address market shortfalls in pay for police officers, beginning pay is recommended at a rate closer to the average start pay at comparable metropolitan police departments. Two and three-years officer pay is slightly below average and mid-year market adjustments in 2019 will help address this issue over the two-year span of the contract.

Ms. Hiniker explained that as the pool of eligible officers for hire continues to decrease, it is important to remain competitive with pay and benefits to retain existing officers and recruit new officers to White Bear Lake. The financial impact of two consecutive 3.5% market adjustments for rookie officers increases their pay by approximately \$3,832 their first year over what they would have otherwise received with straight 3% increases. The 1.5% market adjustment for first and second year officers and 1% for third year officers helps to maintain a reasonable margin for step increases, avoiding step compression.

It was moved by Councilmember **Biehn**, seconded by Councilmember **Engstran**, to adopt **Resolution No. 12328** amending the Union contract with Minnesota Public Employers Association of Police Officers (MNPEA).

Motion carried unanimously.

Mayor Emerson temporarily recessed the Council Meeting at 7:30 p.m.

10. HOUSING AND REDEVELOPMENT AUTHORITY

Chair Doug Biehn called the Housing and Redevelopment Authority to order at 7:30 p.m. (please refer to the minutes of the Housing and Redevelopment Authority for action taken that included the following items):

1. Call to order/Roll Call
2. Approval of the minutes
3. Approval of the agenda
4. Election of a Chair and Vice Chair of HRA
5. Adjournment:

Mayor Emerson reconvened the City Council meeting at 7:34 p.m.

11. CONSENT

- A. Resolution establishing regular meeting nights of the City Council of the City of White Bear Lake. **Resolution No. 12329**
- B. Resolution authorizing City Manager to invest and transfer funds for the City, designation of band depository, and depositing for investments. **Resolution No. 12330**
- C. Resolution fixing surety bonds for various City Officials and providing for approval of the same. **Resolution No. 12331**

- D. Resolution authorizing the City Manager to pay claims made against the City. **Resolution No. 12332**
- E. Resolution authorizing a service agreement with Northeast Youth and Family Services. **Resolution No. 12333**
- F. Resolution authorizing temporary liquor license for Bear Boating of White Bear Lake. **Resolution No. 12334**
- G. Resolution authorizing temporary liquor license for Church of St. Pius X. **Resolution No. 12335**
- H. Resolution authorizing massage therapy establishment and therapist license. **Resolution No. 12336**

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn**, to adopt the Consent Agenda as presented.

Motion carried unanimously.

12. DISCUSSION

A. Administrative Hearing Officer Appointment 2019

City Manager Hiniker explained that Kathleen Marac had been the City's Administrative Hearing Officer for quite some time. Due to health considerations, Ms. Hiniker asked for more time to find an appointee and noted that the Charter does not require this appointment at this first meeting of the year. In the meantime, Ms. Hiniker relayed that the City Manager has the authority to assign a staff member to hear any cases provided they do not involve speeding.

B. Ramsey County Suburban Cable Commission

Ms. Hiniker mentioned the City of Vadnais Heights recently passed a resolution, which authorized their staff to carry on separate franchise negotiations with Comcast. She stated there are several issues related to this decision that warrant further discussion. Ms. Hiniker described meeting with Tim Finnerty, the Executive Director of Ramsey/Washington Suburban Cable Commission. Both agreed that a broader meeting with the Cable Commission is needed to revisit the reason cities joined in the first place and discuss the Commission's relevance going forward.

Ms. Hiniker stated that Councilmember Walsh expressed an interest in being present at this meeting. She asked if there was interest from others and Councilmember Jones asked to be included as well.

Councilmember Edberg asked City Manager Hiniker to draft a memorandum to Council providing a base of knowledge and highlighting what is at stake. He wanted some options for the City to consider for improving service to the community in the face of this changing environment.

City Manager Hiniker added that Maplewood pulled out of the joint powers agreement three years ago, as they (and now Vadnais Heights) believed they could better spend franchise fees rather than work collectively through the Commission. Ms. Hiniker stated that each city would get more franchise money separately but that duplicating the services offered by the Commission

would be expensive and difficult for a city to provide on its own, which is why the city joined this Commission in the first place.

Councilmember Edberg pointed out that the Minnesota Attorney General filed a lawsuit against Comcast in late December, alleging significant over-charging and financial abuse of customers. He asked whether this corporate behavior has had an impact on the City. Ms. Hiniker stated that Tim Finnerty and the attorney on behalf of the Commission had correspondence with Comcast related to this litigation and will be watching this on behalf of White Bear Lake.

Councilmember Jones clarified there is more to the Cable Commission than providing support with Comcast, for example they record and broadcast the public meetings, they also provide production and filming of local events and local programming, which is a big value. He said it would be difficult to set a budget for these activities without the assistance of other communities.

13. COMMUNICATIONS FROM THE CITY MANAGER

- RushLine BRT Open House in City Hall, Thursday, January 10 from 4:30 – 7:30 p.m hosted by Ramsey County Regional Railroad BRT staff to discuss the platform planning process as it affects the downtown. There were two pop-up BRT events this past week, one at the Library and one today at the YMCA. Ms. Hiniker stated that a survey is also available for people to vote for one of five downtown platform locations.
- Public Works/Engineering updates – Paul Kauppi, PW Director/City Engineer
 - Lack of snow this winter has meant less staff overtime and reduced use of salt and fuel.
 - No water main breaks so far this year with good weather reported in the coming week. As a result staff have been able to catch up on tree trimming.
- Finance Department update – Don Rambow
 - Budget books are complete and this is the City's first book to contain a budget for all of the City's funds, including the Construction Fund.
 - The Finance Report is the next big focus for the department.

14. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Engstran** seconded by Councilmember **Jones** to adjourn the regular meeting at 7:46p.m.


Emerson, Mayor

ATTEST:


Kara Coustry, City Clerk