



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MAY 14, 2019
7:00 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Chair Kevin Edberg called the meeting to order at 7:02 p.m. Councilmembers Doug Biehn, Dan Jones, Steven Engstran and Bill Walsh (arriving 7:04 p.m.) were present. Mayor Emerson was an excused absence. Staff members present were City Manager Ellen Hiniker, Community Development Director Anne Kane, Finance Director Kerri Kindsvater, City Engineer Paul Kauppi, City Clerk Kara Coustry and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the Regular City Council Meeting on April 23, 2019

It was moved by Councilmember **Engstran** seconded by Councilmember **Biehn**, to approve the Minutes of the Regular City Council Meeting on April 23, 2019.

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

Chair Edberg moved 11C to 9A, thereby advancing all other New Business agenda items forward one.

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

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

A. Brad Falteysek – 2018 Audit Report

Brad Falteysek, the City's Auditor from Abdo, Eick & Meyers, presented the City's Audit report whereby a clean, unmodified opinion was issued. He noted one internal control finding as a result of a prior period adjustment made to an interfund loan account that was not set up properly in 2016. He also noted one legal compliance finding in which three invoices were not paid within 35 days as required by state statute. He added that this is not an uncommon finding for City's.

Mr. Falteysek reported on the City's General Fund, its revenues, expenditures and fund balance of 33.3%, very close to the recommended 35-50% balance. He noted the slight increase in revenues was due primarily to inflation. He reported cash balances below the

auditor's recommended target balances in the water, sewer, refuse, ambulance and License Bureau funds.

As reported in prior years, Mr. Falteysek noted the City's tax rate, tax per capita, debt per capita and debt service rates are much lower than the City's peers.

In response to Councilmember Biehn, Mr. Falteysek clarified that cash balance targets in the Enterprise Funds are recommendations of Abdo Eick & Meyers. Mr. Falteysek also clarified for Councilmember Edberg that the General Accounting Standards Board (GASB) accounting standards only required the City to set fund balance goals for the General Fund.

Councilmember Edberg noted the License Bureau Fund account balance has declined significantly and asked for the auditor's perspective. Mr. Falteysek stated he uses White Bear Lake's License Bureau as an example to others because of its ability to transfer funds to support other funds at the end of the year. There was additional discussion related to the impact of MNLARS and Real ID to operations.

Councilmember Edberg thanked Mr. Falteysek and Finance Director Kindsvater for their work on the audit report.

5. PUBLIC HEARINGS

Nothing scheduled

6. LAND USE

A. Consent

1. Consideration of a Planning Commission recommendation for approval of a request by Keith Hisdahl for a Planned Unit Development located at 1966 & 1978 Highway 96. (Case No. 19-3-PUD). **Resolution No. 12391**
2. Consideration of a Planning Commission recommendation for approval of a request by Grant Raykowski variances to demolish the existing detached garage and reconstruct with a larger structure at 2503 Manitou Island. (Case No. 19-2-V). **Resolution No. 12392**
3. Consideration of a Planning Commission recommendation for approval of a request by Joe Braman for setback variances to install an above ground pool at 1860 Clarence Street. (Case No. 19-3-V). **Resolution No. 12393**

It was moved by Councilmember **Walsh** seconded by Councilmember **Biehn**, to approve the Land Use Consent Agenda as presented.

B. Non-Consent

1. Consideration of a Planning Commission recommendation for approval of a request by Mark and Nancy Moe for a Conditional Use Permit for a home accessory apartment at 2524 Crestline Drive. (Case No. 19-2-CUP)

Community Development Director Kane stated the subject site, 2524 Crestline Drive, is on the south side of Crestline Drive, east of Bellaire, and along the

northern shore of Heiner's Pond. The property and surrounding properties are zoned R-3 – Single Family residential and S – Shoreland overlay district. The lot is 25,000 square feet and has a single family home with a two-car garage.

Ms. Kane explained the applicants, Nancy and Mark Moe, are proposing to provide an accessory unit in the basement. Consequently, they are requesting a conditional use permit for a home accessory apartment. The accessory apartment is 830 square feet with 38% of the habitable living area, which complies with code size requirements. Ms. Kane added the entrance to this unit is around the back of the house facing the pond, and completely unseen from the street, which also complies with the code.

Ms. Kane reported that the code requires enough off street parking for all vehicles parked at the residence. The two-car garage and equally sized driveway, with a parking tab along the west side, provide ample parking for a number of vehicles. She added that parking was the concern addressed by two neighbors in this case.

Ms. Kane stated the code requires all accessory apartments cease upon transfer of title unless reissued by the City Council. If the applicant sells the home, the new owner will need to reapply to utilize the accessory unit. Further, should the applicants wish to rent the accessory apartment to someone other than a family member, a rental license will be required.

Ms. Kane summarized that the proposal meets the City's accessory apartment standards and the Conditional Use Permit is consistent with the Comprehensive Plan. She forwarded the Planning Commission's unanimous recommendation to approve the request, subject to the conditions listed in the resolution.

Nancy Moe, the applicant, noted that trends for new construction included home health care worker suites, which provide the ability for homeowners to age in place. She also noted a shortage of places to live in White Bear Lake.

It was moved by Councilmember **Jones** seconded by Councilmember **Biehn** to approve **Resolution No. 12394** for a request by Mark and Nancy Moe for a Conditional Use Permit for a home accessory apartment at 2524 Crestline Drive. (Case No. 19-2-CUP).

On a related topic, Councilmember Edberg asked Ms. Kane her thoughts about Airbnb's in White Bear Lake. Ms. Kane reported some teachers rent their homes over the summer and online today there were only a couple locations listed within the City's limits. Ms. Kane expressed an interest in providing regulation, noting this could be done next year when the Comprehensive Plan is reflected in the City's Zoning code.

Motion carried unanimously.

7. UNFINISHED BUSINESS

Nothing scheduled

8. ORDINANCES

A. First Reading of an Ordinance Amendment for Shafer Richardson Project Rezoning

Community Development Director Kane reported the subject site is 4.6 acres in size and is comprised of five lots located at the northwest corner of County Road E and Linden Avenue. Four of the five parcels are currently zoned B-4 – General Business. The fifth parcel – the easternmost parcel - is split-zoned: B-4 on the south three-fourths of the lot and R-6 – Medium Density Residential on the northern one-fourth.

She explained that Schafer Richardson is proposing to rezone all five parcels to R-7 - High Density Residential for the purpose of constructing a 4-story market-rate apartment building. Because the site has already been reguided to “High Density Residential”, it logically follows to approve a zoning district that corresponds to the future 2030 land use designation.

Ms. Kane stated the subject site is an appropriate location for the higher density, transit-oriented type development due to its access to a roadway designated as a minor expander under County jurisdiction. It is also close to the planned Bruce Vento Regional Trail extension and more importantly, the Rush Line Bus Rapid Transit corridor.

Ms. Kane forwarded a Planning Commission recommendation to approve the proposed rezoning. Regardless of the Schafer Richardson proposal, R-7 zoning is the most appropriate zoning district for the subject site until the creation of a Transit Oriented Development district.

Councilmember Walsh asked whether Ramsey County had approved turning in from County Road E and Ms. Kane confirmed they will allow right-in and right-out access.

9. NEW BUSINESS

A. Resolution denying massage therapy establishment license

Ms. Hiniker reported on staff’s recommendation for denial of a massage therapist business license for Lee Anderson and his wife Sara Wang-Anderson (Applicants) at 1979 Whitaker Avenue. She explained the Applicants received a building permit to renovate the location in February and licensing staff reached out to Mr. Anderson after becoming aware of the proposed business and notified them of the City’s license requirements for massage. The Applicants submitted a business application for Vita Day Spa on April 12.

Lee Anderson of 5526 Utah Ave. N., New Hope, MN explained there have been misunderstandings. He mistakenly put the wrong date for his wife’s birthday on the application. He also admitted to allowing a therapist to work without a massage license at Vita Day Spa in Shoreview because it was taking too long for the license approval.

Mr. Anderson explained that Vita Day Spa is more than just a massage establishment. He noted they have received state salon licensing and passed state and city inspections at the location.

Regarding advertisement of the business on rubmap.com, Mr. Anderson explained that as soon as he learned about his wife placing an advertisement on this website, he contacted them to be removed from the site. He stated the website is from New Zealand and has not been responsive to his request for removal of their business.

Related to the Plymouth Police report stating that Mr. Anderson recanted his statement that an unlicensed massage therapist ever worked at Vita Day Spa in Shoreview, Mr. Anderson explained it was difficult to understand the name of the therapist they were asking about because he was driving and talking hands-free at the time the police called. He did not recognize the employee's name and stated she did not work there. He later realized they were calling about one of his employees, at which time he called them back and confirmed her employment at his Shoreview location.

At Councilmember Edberg's request, City Attorney Gilchrist provided his perspective, stating the Council may choose to accept staff's recommendation for denial, or vote to approve the massage establishment license. Mr. Gilchrist pointed to three primary issues: incorrect information on the application (date of birth); history of violations of health and public safety ordinances (unlicensed massage practitioner); display or depiction of advertisements suggesting illegal services are available at the establishment (advertisement on rubmap.com). Mr. Gilchrist pointed out these reasons have been cited in previous applications as basis for denial.

Councilmember Jones spoke to the underlying issues related to massage therapy businesses, the need for cities to tighten ordinance provisions and the importance of accuracy on the application. He expressed concern for the Applicants' significant investment in this location prior to applying for licensure. Councilmember Jones expressed the strongest concern for the statement Mr. Anderson made that business was slow and that is why the advertisement was placed on rubmap.com. He appreciated the Applicants showed up to speak on behalf of the application, but with these issues, he would be hard-pressed to explain to constituents that this is a reputable business.

Councilmember Edberg reviewed the City's options with the City Attorney and received clarification that applicants may reapply for the same license again in one year. City Attorney Gilchrist stated the Council may vote either to approve or deny the license. If the Council votes to approve the license, Mr. Gilchrist recommended Council give direction to prepare a resolution of approval with appropriate findings to support that decision.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Jones**, to approve **Resolution No. 12399** denying a massage therapy establishment license.

Councilmember Walsh stated that businesses are welcome in White Bear Lake, but the potential for exploitation and sex trafficking in the massage business commands a higher level of scrutiny over these licenses. He noted his consistency with applying higher standards to massage therapist applications, with little tolerance for issues and flags such as in this case. While he appreciated Mr. Anderson explaining these issues to the Council, he was not compelled to overturn staff's recommendation for denial based on findings from the background investigation.

Councilmember Biehn appreciated the applicant coming forward, but he shared the concerns others have expressed. He stated that because the applicant came forward today, he would be much more open to reconsidering license approval should the

applicants reapply after a year. Because of the reasons listed, he could not support the granting of a license at this time.

Motion carried unanimously.

B. Resolution authorizing 4th and Otter Lake Road property acquisition

City Engineer Kauppi reported on an opportunity to acquire a remnant parcel at the intersection of 4th and Otter Lake Road. Vadnais Lake Area Management Organization (VLAWMO) originally looked to acquire this property from Desoto Associates about purchasing the site for stormwater management improvements.

Mr. Kauppi explained that it made the most sense for the City to own the property with drainage and utility easements for VLAWMO's purposes. Although there are no plans currently, the City has an interest in this property for future intersection alignment improvements. As such, Mr. Kauppi forwarded staff's recommendation to accept the donated property from Desoto Associates LLC and approve the issuance of a drainage and utility easement for VLAWMO to make its improvements.

It was moved by Councilmember **Biehn**, seconded by Councilmember **Engstran**, to approve **Resolution No. 12395** authorizing 4th and Otter Lake Road property acquisition.

Councilmember Walsh noted the tax loss of \$172 a year.

Motion carried unanimously.

C. Resolution authorizing 2018 budgeted expenditures to be carried over to 2019

Finance Director Kindsvater reported that a fire truck approved for purchase in 2018, was not able to be assembled until 2019. She also noted a few miscellaneous projects budgeted in 2018 that staff was unable to achieve prior to year-end. Ms. Kindsvater stated these are capital improvement projects staff would still like to accomplish and asked for Council's approval to carry forward these previously approved items into 2019.

It was moved by Councilmember **Biehn**, seconded by Councilmember **Jones**, to approve **Resolution No. 12396** authorizing 2018 budgeted expenditures to be carried over to 2019.

Motion carried unanimously.

D. Resolution authorizing re-conveyance of property to the State of Minnesota

Community Development Director Kane reported the subject property is part of the larger Lakewood Village subdivision platted in 1978. In 1995, the parcel was tax forfeited back to the State of Minnesota through Ramsey County. Ms. Kane stated in 1999 the City requested the ability to use this parcel for a public purpose – "public open space, drainage purposes and/or park purposes". Then in 2005, the City applied for a revised Use Deed through Ramsey County indicating the property would be used for "Storm water treatment area".

Ms. Kane explained that Mr. Bruggeman is under contract to purchase the adjacent property to the east to develop a small office building. He inquired about purchasing the land to enable a larger project to be built. After discussing the matter with Ramsey County, staff learned that unless the City is using Outlot C in compliance with the 2005 Amended Use Deed for storm water detention, the property must be conveyed back to Ramsey County. The Engineering Department evaluated the parcel's potential to provide storm water treatment for a broader area and concluded, given its location, would only benefit itself and the adjacent property to the east.

Ms. Kane reported that once the use of the parcel is conveyed back to the state, Ramsey County will determine if it is buildable and if so, it will go through the County's public auction process for tax-forfeited properties. If it is deemed un-buildable, the adjoining property owner would be eligible to purchase the property. In either scenario, she said, the opportunity to place this parcel back on the tax rolls would be possible.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Jones**, to approve **Resolution No. 12397** authorizing re-conveyance of property to the State of Minnesota.

Motion carried unanimously.

E. Resolution appointing Jim Rathburn as Administrative Hearing Officer

City Manager Hiniker reported that Mr. Rathburn is an active member in the community, has a law degree and experience in both law and in business. She forwarded staff's recommendation for his appointment as the Administrative Hearing Officer for the City of White Bear Lake.

It was moved by Councilmember **Jones**, seconded by Councilmember **Biehn**, to approve **Resolution No. 12398** appointing Jim Rathburn as Administrative Hearing Officer.

Motion carried unanimously.

Chair Edberg recessed the City Council meeting at 8:34 p.m.

10. HOUSING AND REDEVELOPMENT AUTHORITY

Refer to the HRA Minutes for an account of the following:

- A. Call to Order/Roll Call
- B. Approval of the Agenda
- C. Approval of the Minutes of the January 8, 2019 HRA Meeting
- D. Resolution authorizing a Request for Proposals to solicit proposals for a Comprehensive Housing Needs Assessment
- E. Adjournment

Chair Edberg reconvened the City Council meeting at 8:41 p.m.

11. CONSENT

- A. Acceptance of Planning Commission meeting minutes from April 29, 2019

B. Acceptance of Park Commission meeting minutes from March 21, 2019

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

Motion carried unanimously.

Chair Edberg excused Member Walsh from the City Council meeting at 8:42 p.m.

12. DISCUSSION

A. Emerald Ash Borer Management program

City Manager Hiniker referenced three (3) financial scenarios provided in the Council's packet related to the City's ash tree program. Ms. Hiniker highlighted risks with a prolonged tree care program should the insects become resistant to treatment. She noted that treatment plans may range from \$2 – \$6 million over the long term.

City Engineer Kauppi stated the tree care program was reviewed in light of a possible opportunity for tree replacement out of the Water Gremlin settlement, through the tree trust. He estimated 500 trees would be slotted for replacement in White Bear Lake. Mr. Kauppi explained there is an opportunity to replace more ash trees earlier in the process through this tree trust. The city would have upfront costs for tree removal and stump grinding (approximately \$800/tree). He estimated \$200,000 would be saved through the free tree trust program.

Mr. Kauppi noted Emerald Ash Borer continues to be discussed at the legislative level so there may be additional opportunity for future funding to deal with this problem. He referenced \$25,000 in the budget and \$70,000 in remaining kick-start funding for the ash tree program.

Councilmember Jones questioned the City's policy of tackling park trees before boulevard trees. Mr. Kauppi agreed there were many policy questions. He mentioned the park trees are the City's responsibility while the boulevard trees are those of the homeowner, but this is an epidemic and perhaps management of ash trees in boulevards should taken by the City.

Ms. Hiniker pointed out that the boulevard trees were included in the assumptions presented to Council in the scenarios. Mr. Kauppi stated that all inventoried ash trees were included in the scenarios; however, many are potentially small enough in diameter for City staff to remove, time permitting. He mentioned that stump grinding and tree replacement would be still need to be outsourced.

Councilmember Edberg mentioned that now with a better understanding of the long-term implications of the ash tree program, it would be useful to have a future discussion about the value of these trees to the community.

In response to Councilmember Edberg, Ms. Hiniker noted the budget has been set this year, but staff had been looking at a 15-year program with treatment continuing every three years. She reported a shift of thinking that tree replacement should be more deliberate on a yearly basis. She added the opportunity to partner with this tree trust

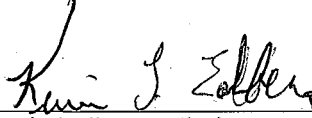
program does drive the timeline for discussion and more numbers will be relayed when they become available.

13. COMMUNICATIONS FROM THE CITY MANAGER

- Lions Club contributed \$3,200 from gambling to the Fire Department for equipment at the south Fire Department.
- Lions Club will be hosting a Public Safety Appreciation grill-out at the south Fire Station at 5:30 p.m. on May 23.
- Law Enforcement Memorial is Thursday, May 16 in Mounds View mid-day.
- Work Session next Tuesday, May 21 to review the long-range capital improvement plan at 6:00 p.m. The October work session will revisit the CIP
- Councilmember Jones mentioned Thursday, May 16 is Touch-a-Truck Day (5:00 p.m.)
- Updates from the City Engineer/Public Works Director Kauppi
 - Thank you to volunteers and staff who supported Arbor Day, Sat. May 4 and the City's designation as Tree City USA.
 - The Water Treatment Plant is down for annual maintenance. The auger and gearbox components need to be replaced, but the plant is expected to be back online by the end of this week.
 - Annual spring hydrant flushing is tentatively planned for Monday, May 20.
- Update from the Community Development Director Kane
 - Please RSVP for the Metropolitan Council Chair representative who will be hosting a meet and greet at Boatworks Commons on Wednesday, May 29 at noon. Others in attendance will be members from the Economic Development Corporation, the Chamber of Commerce, School District, Ramsey County and other Metropolitan Council staff.

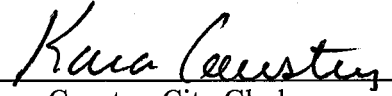
14. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Jones** seconded by Councilmember **Engstran** to adjourn the regular meeting at 9:17 p.m.



Kevin Edberg, Chair

ATTEST:



Kara Coustry, City Clerk