



AGENDA
REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MARCH 28, 2023
7 P.M. IN THE COUNCIL CHAMBERS

1. CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the Regular City Council Meeting on March 14, 2023

B. Minutes of the City Council Work Session on March 21, 2023

3. ADOPT THE AGENDA *(No item of business shall be considered unless it appears on the agenda for the meeting. The Mayor or Councilmembers may add items to the agenda prior to adoption of the agenda.)*

4. CONSENT AGENDA *(Those items listed under Consent Agenda are considered routine by the City Council and will be acted upon by one motion under this agenda item. There will be no separate discussion of these items, unless the Mayor or a Councilmember so requests, in which event, the item will be removed from the consent agenda and considered under New Business.)*

A. Resolution ordering 2022 Stormwater Pollution Prevention Program Public Hearing

B. Resolution adopting Rotary Nature Preserve Wetland Vegetation Management Plan Memorandum of Understanding

C. Resolution authorizing solicitation for RFP for preferred development of city owned property located at 1755 Hwy 96

5. VISITORS AND PRESENTATIONS

A. Biannual Police Department Report + Swear in Police Officers

B. Body Worn Camera Audit

6. PUBLIC HEARINGS

None

7. UNFINISHED BUSINESS

A. Second Reading of an Ordinance Amending the 2023 Fee Schedule

B. Tobacco License Renewals

8. NEW BUSINESS

A. Concurrent Detachment and Annexation of Certain Property to the City of Mahtomedi

9. DISCUSSION

None

10. COMMUNICATIONS FROM THE CITY MANAGER

11. ADJOURNMENT



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, MARCH 14, 2023
7 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Mayor Dan Louismet called the meeting to order at 7 p.m. The City Clerk took attendance for Councilmembers Kevin Edberg, Steve Engstran, Heidi Hughes, Dan Jones and Bill Walsh. Staff in attendance were City Manager Lindy Crawford, Assistant City Manager Rick Juba, Community Development Director Jason Lindahl, Public Works Director/City Engineer Paul Kauppi, Building Official Ben Eggan, City Clerk Caley Longendyke, and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the City Council Meeting on February 28, 2023

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

3. APPROVAL OF THE AGENDA

Mayor Louismet moved the consent agenda item approving business license renewals (4B) to new business (8B). He also moved the consent agenda item approving a logo copyright agreement (4I) to new business (8C). It was moved by Councilmember **Edberg**, seconded by Councilmember **Walsh**, to approve the agenda as amended. Motion carried unanimously.

4. CONSENT AGENDA

- A. Accept Minutes: November Park Advisory Commission, January Environmental Advisory Commission, January White Bear Lake Conservation District, February Planning Commission
- B. ~~Resolution approving Business License Renewals~~ *Moved to New Business 8B*
- C. Resolution approving On-sale Wine and Sunday Liquor Licenses for Carse Inc. dba Keys Café
Res. No. 13161
- D. Resolution granting three setback Variances for 4815 Lake Avenue **Res. No. 13162**
- E. Resolution granting a Conditional Use Permit for 955 Wildwood Road **Res. No. 13163**
- F. Resolution granting a Permanent Easement on the 8th Street parking lot property **Res. No. 13164**
- G. Resolution approving participation in the Minnesota Opioid Settlement **Res. No. 13165**
- H. Resolution approving an off-sale liquor license for TLC Liquors LLC, dba MGM Wine & Spirits **Res. No. 13166**
- I. ~~Resolution approving a Logo Copyright Agreement~~ *Moved to New Business 8C*

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

5. VISITORS AND PRESENTATIONS

Nothing scheduled.

6. PUBLIC HEARINGS

A. First Reading of an Ordinance Amending the 2023 Fee Schedule

City Manager Lindy Crawford presented a first reading of a proposed ordinance amending the 2023 Fee Schedule. The amendment is in response to the City Council approving an ordinance allowing sidewalk cafes in the City, and the changes to the Fee Schedule would be the addition of associated fees related to sidewalk cafes. The proposed fees include an initial application fee of \$150, a renewal fee of \$125 when there are significant changes to the sidewalk café from the previous year, a renewal fee of \$60 when there are no changes from the previous year, and a violation fee set at \$100. There was no comment made during the public hearing. Councilmember Walsh doesn't favor a renewal fee when there are no changes to an existing sidewalk café, and said he may make a motion at the next City Council meeting to amend the proposal.

A second reading and vote of the proposed ordinance is scheduled for the March 28, 2023 City Council meeting.

7. UNFINISHED BUSINESS

Nothing scheduled.

8. NEW BUSINESS

A. Minnesota Public Employees Association Labor Agreement – Patrol Officers

Assistant City Manager Rick Juba summarized the two-year labor contract for Minnesota Public Employees Association for Patrol Officers. Councilmember Hughes asked how the City's compensation compares to other cities and if the City is staying competitive. Juba said the classification and compensation study helped identify the competitive range and the City's pay falls within that range. Councilmember Hughes complimented the work of police officers and wants to make sure their compensated appropriately.

It was moved by Councilmember **Engstran**, seconded by Councilmember **Hughes**, to approve **Res. No. 13167** approving a labor agreement with Minnesota Public Employees Association Labor Agreement for Patrol Officers. Motion carried unanimously.

B. Resolution approving Business License Renewals

City Manager Lindy Crawford provided an overview of the business license renewals, including information on license changes and outcomes from compliance checks. She brought attention to the two rounds of compliance checks conducted at tobacco shops for THC products. At the September 27, 2022 regular meeting, the City Council approved a 12-month moratorium prohibiting the sale of THC products. Five establishments were found to be selling THC products and failed the first compliance check, and two of those establishments, MNJ Tobacco Inc. and

Nothing But Hemp, failed a second compliance check. She also noted a liquor-licensed establishment that was serving liquor past 1 a.m. but didn't have a permit issued from the state to do so.

Mayor Louismet asked about the status of the criminal cases against the businesses illegally selling THC products. City Attorney Gilchrist said the criminal cases are ongoing and may take several months before a conclusion. When Mayor Louismet asked how illegally selling a product affects the businesses' tobacco licenses, Gilchrist explained that violations typically relate to the activities associated with the type of license, but he noted that the City ordinance outlines a list of reasons for basis for denial of a license and the list is "not exhaustive or exclusive". He said the City has discretion based on the language. Councilmember Walsh referenced the provision that the City can deny a license if the licensee has outstanding fines, penalties, charges or property taxes owed. While the tobacco license is not directly related to THC, he said the businesses are defying the City's moratorium and explained that a business should be in good standing and follow the rules of the City to be issued their business licenses. He questioned their future compliance with THC and City rules in general. He was supportive in denying the renewal of tobacco licenses to MNJ Tobacco Inc. and Nothing But Hemp. There was discussion about the interpretation of the term 'charges' and whether it means criminal charges or monetary charges. Gilchrist said the word is directed towards monetary charges.

Gilchrist advised City Council that if they were inclined to further discuss the businesses' licenses, they can approve the rest of the renewals and make a motion to continue the discussion on the two businesses to the next meeting. Notice would be provided to the two business owners to provide them opportunity to speak to the City Council. Councilmember Edberg asked about the City's obligation, if any, to provide opportunity to the businesses for amendment. Gilchrist said failing two compliance checks is indication of clearly acting. Councilmember Jones requested Gilchrist to read the City's ordinance for basis of denial, and suggested suspending their licenses, at the very least. He said all other businesses are following City regulations and he is not supportive of allowing these businesses to continue operating. Mayor Louismet said there is still time before the new licensing period to move the discussion to the next meeting and allow time for the City to do their due diligence, including notice to the licensees. Gilchrist advised the City Council move the two business licenses to the next meeting, because City ordinance requires granting the licensees reasonable notice and an opportunity to be heard.

Mayor Louismet asked City Manager Crawford for clarification on the 2 a.m. liquor permit. Crawford explained that there are four on-sale liquor establishments open until 2 a.m., but only three are properly permitted, with White Bear Bar being the one establishment not in compliance. It is a state-issued permit that is signed off by the City Clerk. Mayor Louismet suggested deliberation among the Council on whether they want to table White Bear Bar's renewal to the March 28, 2023 meeting. There was no further discussion about White Bear Bar.

It was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran**, to approve **Res. No. 13168** approving business license renewals for the license period April 1, 2023 to March 31, 2024, with the exception of MNJ Tobacco and Nothing But Hemp whose licenses will be discussed at the March 28, 2023 City Council meeting. Motion carried unanimously.

C. Resolution approving a Logo Copyright Agreement

City Manager Lindy Crawford presented a resolution for the City Council to approve a logo copyright agreement involving bear drawings by Dan Jones, resident and City Councilmember. She explained that the bear drawings are used in various areas of the City, including signage, City emblem, City logo and the water tower. The agreement would transfer all rights for the bear drawings from Councilmember Jones to the City. Mayor Louismet noted there is no monetary compensation for the drawings and thanked Councilmember Jones for offering them to the City.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Walsh**, to approve **Res. No. 13169** approving the execution of an agreement for a logo copyright transfer. Motion carried 4-0. Councilmember Jones abstained.

9. DISCUSSION

A. Concept Plan Review for 2502 County Road E

Community Development Director Jason Lindahl introduced the concept plan for 2502 County Road E, and shared that this is the first presentation for the newly implemented concept plan review process. He reminded the public that this process provides various opportunities for the applicant to receive feedback on a concept plan proposal. Lindahl provided an overview of the concept at 2502 County Road E, which is currently a vacant gas station. The request is to develop the lot into 15 apartment units and three townhomes, including indoor and outdoor parking stalls and townhome garages. The building would be three stories at the corner of the intersection and transition to two stories. Lindahl summarized the analysis of what is allowed for that lot, including the density of units, height of the building, setbacks, parking stall requirements and exterior materials. He said the concept doesn't meet standards for front or street side setbacks, exceeds the maximum building height and doesn't meet the minimum number of parking stalls. Lindahl summarized the feedback from the neighborhood meeting and said there were concerns in the areas of number of units, height, parking, stormwater, snow storage and the Jansen Avenue entrance. He said the Planning Commission shared similar concerns, but supporters of the idea complimented the design and the communication from the developer. Lindahl said the next steps to the process would include rezoning, Planned Unit Development application and review from Ramsey Washington Metro Watershed District. He provided information about the building's height and density, and how it compares to other White Bear Lake multifamily structures.

The applicant, Ryan McKilligan of Element Design-Build LLC, provided more detail to the concept plan. He said there was a lot of communicating with surrounding residents and business owners about the concept and collected feedback on what areas need to be addressed. He acknowledged parking and the number of residential units were main areas of concerns. He explained the intention of the design is to activate streetscape towards the corner of the busy intersection, but also create subtlety toward the corner abutting a quiet residential neighborhood. McKilligan shared renderings and floorplans of the development and highlighted the different elements of the building. He explained more about activation of streetscape and

exhibiting common and living areas on the exterior edge of the building and keeping parking towards the interior of the lot. He said there is one parking stall per bedroom of the building and explained there will not be parking fees to ensure full usage of off-street parking.

Mayor Louismet opened the meeting for public comment at 8:26 p.m. Lee Branwall, resident at 3583 Glen Oaks Avenue, referenced his correspondence sent to Councilmembers and said he speaks on behalf of more than a dozen neighbors. He brought attention to the applicant's comment stating they went around to speak to neighbors, but Branwall said none of his neighbors were approached. He said the neighbors are strongly against the development idea. The areas of concerns include the height of the building, parking, the water runoff down into Peppertree Pond and replacement of the mature trees. In addition to Branwall's concerns, Ann Coves of 3585 Glen Oaks Avenue requested that City Councilmembers visit the site and her neighborhood, noting the number of kids that use Jansen Avenue to catch the school bus. Chris Greene, resident of 3587 Glen Oaks Avenue, agreed with the concerns shared by his neighbors and specifically mentioned how the height of the building will seem enhanced to the neighboring homes that are downhill. He also encouraged City Councilmembers to visit the area. He recommended the Council consider the incurred costs to create a turn lane. Lastly, he asked the developers to consider alternative designs that aren't three stories tall. Frank Watson of 3569 Glen Oaks Avenue agreed with concerns about height and told Councilmembers to visit The Arbors of White Bear Lake as a point of reference for the proposed development's height, and add 6.5 feet. He doesn't want the City to "just building something." He has not heard a stormwater management plan and has concerns for runoff to Peppertree Pond. There being no further comment, Mayor Louismet closed the public comment portion at 8:36 p.m.

Mayor Louismet asked McKilligan if the project would still be financially viable if the number of stories was reduced to two stories. McKilligan said one story of units above structured parking is not viable. When asked if they've explored selling the units instead of renting, McKilligan says the current market and interest rates don't support selling the units. He talked more about the parking stalls and said there are six parking stalls for guests in addition to the one parking stall per bedroom. Councilmember Walsh asked how that compares to the City's parking requirement, to which Director Lindahl responded the City typically requires two stalls per unit. The concept plan is four stalls short of that requirement. Comparing it to The Barnum, a new apartment development, Lindahl said the Planned Unit Development provided flexibility for a lower parking stall-to-unit ratio. Councilmember Edberg complimented McKilligan's involvement in the County Road E Corridor Action Plan. When asked about the role of Element Design-Build LLC after development, McKilligan said the company owns, operates and stabilizes all of its projects. Councilmember Edberg brought attention to the mature trees surrounding the building. McKilligan said many of the mature trees are on the neighbor's property and the development will include replacing some of the cleared vegetation and trees and installing a 6-foot fence on the east line. Councilmember Hughes asked about alternatives for lowering the parking lot into the ground to address the height and McKilligan said the costs are prohibitive and it would create a net loss in parking. Councilmembers asked Lindahl about height requirements and other apartments in the City. Public Works Director/City Engineer Paul Kauppi answered questions about parking availability around 2502 County Road E. Lindahl addressed the applicant not meeting criteria of setbacks in exchange for components of streetscape activation. Kauppi noted that the County Road E and Bellaire Avenue intersection is

signalized, so there are controls in place to allow for safe pedestrian crossing. Lindahl answered Councilmember Edberg's questions about zoning and land use planning.

Councilmember Walsh complimented the concept plan review process and thanked the applicant for embracing the process. He supported the idea of reducing the number of stories toward the neighborhood and said he favors ownership over renters, so he encouraged exploring those options. Councilmember Jones honored the residents' concerns about height and said he would not support height over the maximum of 35 feet. He appreciated the business model of not charging for parking to minimize street parking, but emphasized the need for a sidewalk. Councilmember Jones mentioned stormwater drainage and trusts that the City and Watershed District will create a plan to address it. Councilmember Jones expressed his general support for bringing action to the intersection. When Councilmember Edberg asked if there were concerns about stormwater management for this property, Kauppi said developers have to meet the City's strict requirements and it may actually improve conditions in the area. Councilmember Edberg told the applicant that the parking and height are his areas of concern, but recognized that this has been the best proposal thus far for the property.

Councilmember Hughes shared support for the proposal and doesn't share the same level of concern for the height and on-street parking. She appreciated the no-cost parking incentive for residents using the parking stalls. She encourages planting of large trees and vegetation to help with the perspective of height. Agreeing with Councilmember Walsh, she favors ownership but understands that might not be possible. Councilmember Engstran strongly opposed the idea, and specifically addressed the height. He would prefer an alternative design with all townhomes. Mayor Louismet summarized the feedback for the applicant and said the Council is mostly receptive of the concept plan but there are areas of improvement. He suggested that the Council consider that the applicant is willing to invest money into the community and the idea supports the City's housing goals.

B. Abatement of Hazardous Property and Public Nuisance – 2239 Carlyle Court Update

Building Official Ben Eggan provided an update on 2239 Carlyle Court, a property deemed unsafe and was ordered to be abated, an action approved by City Council majority vote at their December 13, 2022 meeting. The order was served on January 4, 2023 initiating the 60-day timeline for compliance to the abatement before filing with the Ramsey County District Court. Eggan explained recent events since the abatement order, including communication and a written statement from Ramsey County, regarding a plan to assist the homeowner with securing funding, rehabilitate the home and coordinate a County-hired contractor. The County requested the City withhold proceeding with the abatement order as they assist with the rehabilitation. Eggan reported the progress that has been made thus far. He asked the City Council for direction on whether staff should move forward with filing the abatement order, based on Council's vote on December 13, 2022 and being past the 60-day deadline, or allow the homeowner more time based on the cooperation and request from the County. Lindahl shared information on the funding that has been secured.

Mayor Louismet asked if granting more time to the homeowner would limit the City's ability to move forward with the filing at a later time if progress has stalled. City Attorney Gilchrist said

providing more time shows that the City is giving the homeowner multiple opportunities and it would strengthen their position later if filing was needed. Mayor Louismet was supportive of giving more time, but only if progress was being made. Councilmember Jones concurred that progress must continue or the City will move forward with the filing.

10. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Lindy Crawford shared upcoming events, including a Concept Plan Review Neighborhood Meeting for 2687 County Road D and a Conditional Use Permit Neighborhood Meeting for the White Bear Lake Area Schools North Campus. She shared the Public Safety Building construction has started on the interior of the building. She provided a general timeline of the renovation project. Councilmember Engstran asked about medicine drop-off and Crawford said the City will be temporarily redirecting medicine to other identified sites in Ramsey County.

12. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Walsh**, seconded by Councilmember **Engstran** to adjourn the regular meeting at 9:54 p.m. Motion carried unanimously.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



**CITY COUNCIL WORK SESSION
MINUTES
TUESDAY, MARCH 21, 2023
7:00 PM
2ND FLOOR BOARD ROOM OF CITY HALL**

Mayor Louismet opened the meeting at 7:00 PM. Councilmembers in attendance included: Bill Walsh, Heidi Hughes, Steven Engstran, and Dan Jones. Councilmember Edberg was excused. Staff in attendance included: City Manager Lindy Crawford, Assistant City Manager Rick Juba, City Attorney Troy Gilchrist, City Clerk Caley Longendyke, Captain Phil Henry, Public Works Director / City Engineer Paul Kauppi, and Horticulturist Sadie Loose.

1. LIQUOR ORDINANCE DISCUSSION

City Manager Crawford explained the differences between the City's liquor related ordinances, State Statutes and other area Cities. The City Manager's Office would like to propose the City's liquor related ordinances be combined into one ordinance with updated the language to conform to the State. As part of the discussion, staff summarized some of the issues surrounding liquor lounges within the city and establishments that are open until 2:00 AM. Staff will prepare a revised liquor ordinance for City Council consideration at a future meeting. Consideration by the City Council will follow the City's process for amending an ordinance which includes a public hearing at a future date.

2. THC ORDINANCE DISCUSSION

City Attorney Gilchrist summarized a working draft of a THC ordinance. Councilmembers discussed proposed legislation that the State of Minnesota is considering for THC regulation and the timing of the legislation. Staff will continue to research this issue, develop the draft ordinance and research scenarios regarding zoning districts and THC sales. Staff will also continue to track the legislation and update the City Council regarding the State's progress.

3. EMERALD ASH BORER (EAB) / BOULEVARD TREE ORDINANCE DISCUSSION

Staff gave an overview of the general situation regarding emerald ash borer (EAB) in public areas, including boulevards, in the City. Since 2017, the City has been treating and removing ash trees. Despite these efforts, ash trees in the City have begun to decline rapidly on both public property and private property. Staff presented options for managing the removal and replacement of ash trees over the next several years. Further discussion about funding for EAB management will take place when the City Council reviews its Capital Improvement Plan. Staff will draft an amended ordinance for the management of boulevard trees for future council consideration work to develop a tree replacement program.

Meeting adjourned 10:12 PM



City of White Bear Lake
Engineering Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Connie Taillon, Environmental Specialist/Water Resources Engineer
Date: March 28, 2023
Subject: **Ordering 2022 Annual Public Hearing and Annual Report on the City's Storm Water Pollution Prevention Program**

SUMMARY

The City Council will consider adopting a resolution ordering a public hearing on the City's Storm Water Pollution Prevention Program (SWPPP) to be held at the regular City Council meeting on April 25, 2023.

BACKGROUND INFORMATION

The City maintains a SWPPP which is required by the Minnesota Pollution Control Agency (MPCA) for its Municipal Separate Storm Sewer System (MS4) General Permit. The goal of the City's SWPPP is to improve the quality of the storm water runoff discharged from the City's storm sewer system. The City's SWPPP describes how the City proposes to accomplish improved storm water quality through implementation of six Minimum Control Measures (MCM's) that are required by the MPCA.

The six MCM's included in the City's program are:

1. Public education and outreach
2. Public participation and involvement
3. Illicit discharge detection and elimination
4. Construction site storm water runoff controls
5. Post construction storm water management
6. Pollution prevention/good housekeeping for municipal operations

The City is implementing Best Management Practices (BMPs) to support each of the MCM's and annually reviews the plan and the BMPs employed to ensure they are meeting the goals set forth in the SWPPP.

The Engineering Department is preparing the City's 2022 Annual Report on our SWPPP and the City Council is being asked to schedule a public hearing to be held on April 25, 2023. Although the public hearing is no longer a specific requirement of the MS4 Permit, we feel it is still a valuable forum for staff to educate the City Council and the public about our SWPPP and allow feedback on it. At the public hearing we will present an overview of the City's SWPPP and activities that were accomplished in 2022 which support the six MCM's, and provide an

opportunity for public input on the SWPPP. After the public hearing, staff will prepare the final Annual Report and submit it to the MPCA.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution order a public hearing on the City's SWPPP to be held at the regular City Council meeting on April 25, 2023.

ATTACHMENTS

Resolution

RESOLUTION NO.

RESOLUTION ORDERING A PUBLIC HEARING TO DISCUSS THE CITY OF WHITE BEAR LAKE'S STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP)

WHEREAS, the City of White Bear Lake adopted a Storm Water Pollution Prevention Program (SWPPP) in March, 2003 to comply with the Minnesota Pollution Control Agency requirements for obtaining a Municipal Separate Storm Sewer System General Permit; and

WHEREAS, the permit was updated and renewed on October 22, 2008; and

WHEREAS, the permit was updated and renewed on April 3, 2014; and

WHEREAS, the permit was updated and renewed on November 18, 2021; and

WHEREAS, the City of White Bear Lake desires to comply with the Minnesota Pollution Control Agency requirement to provide an opportunity for public input on the City's SWPPP by holding an annual public hearing to review the SWPPP, the status of compliance with permit conditions, and City's progress towards achieving the measurable goals included in the program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota, that

1. The City Council of White Bear Lake hereby orders a public hearing be held at the regular City Council meeting on April 25, 2023 to review the City's Storm Water Pollution Prevention Program and receive public comments on the program.
2. The comments received at the public hearing will be recorded and considered as the City prepares its 2022 annual report to the Minnesota Pollution Control Agency on its Storm Water Pollution Prevention Program.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
Engineering Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Connie Taillon, Environmental Specialist/Water Resources Engineer
Date: March 28, 2023
Subject: **Rotary Nature Preserve Wetland Vegetation Management Plan Memorandum of Understanding**

SUMMARY

The City Council will consider adopting a resolution to enter into a Memorandum of Understanding (MOU) between the City and Vadnais Lake Area Water Management Organization (VLAWMO) for the development of a Rotary Nature Preserve wetland vegetation management plan.

BACKGROUND INFORMATION

Rotary Nature Preserve is a 40-acre city park located north of Birch Lake, between Birch Lake Boulevard North and White Bear Parkway. This land was preserved to provide native habitat for wildlife and passive outdoor recreation for park users. The ecological integrity of the upland and wetland native habitat is being threatened by the presence of invasive plant species, which over the years have taken over many areas of the park. In 2022, the City and Rotary Club began partnering on a three year restoration project to remove invasive plants in the upland areas and restore these areas with native plants. VLAWMO and Natural Shore Technologies (NST) are key partners in these upland restoration efforts.

Early this year, VLAWMO and City staff worked with NST to provide an estimate for the development of a Rotary Nature Preserve wetland vegetation management plan to follow the currently underway upland restoration work being conducted by the City and Rotary Club. The NST vegetation management plan estimate proposes wetland mapping and vegetation analysis during the 2023 growing season, identifying wetland invasive species management strategies and restoration approaches, and establishing a 5-year budget and timeline. The cost for NST to develop the wetland management plan is \$9,800.

The MOU defines City and VLAWMO roles in the vegetation management plan process. The City and VLAWMO both agree to accept participation in the development of the Rotary Nature Preserve wetland vegetation management plan and to plan for future cost share for projects recommended in the plan, which the partners anticipate will begin in 2025. In addition, VLAWMO agrees to enter into the contract with NST to develop the wetland vegetation management plan, pay 100% of the cost of the contract services in the amount of \$9,800, and provide management and oversight while NST develops the plan.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution approving a Memorandum of Understanding for a Rotary Nature Preserve wetland vegetation management plan.

ATTACHMENTS

Resolution

RESOLUTION NO.

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING FOR A ROTARY NATURE PRESERVE WETLAND VEGETATION MANAGEMENT PLAN

WHEREAS, the City of White Bear Lake has made a commitment to preserve, protect, and improve the water quality of all lakes, wetlands, and streams within the City; and

WHEREAS, the City of White Bear Lake has made a commitment to preserve, protect, and improve the natural habitat in Rotary Nature Preserve; and

WHEREAS, the Rotary Nature Preserve contains a large mosaic of wetlands; and

WHEREAS, these wetlands are highly infested with invasive plant species; and

WHEREAS, restoration of these wetlands would improve ecological function and allow them to better support downstream waterbodies; and

WHEREAS, VLAWMO and the City mutually desire to partner on the development of a wetland vegetation management plan to support and expand upon wetland restoration efforts in Rotary Nature Preserve; and

WHEREAS, VLAWMO and the City of White Bear Lake have a well-established, long-term relationship with Natural Shore Technologies (NST) at Rotary Nature Preserve and other neighboring areas within the subwatershed and City; and

WHEREAS, VLAWMO and the City of White Bear Lake asked NST to submit a Rotary Nature Preserve vegetation management plan estimate; and

WHEREAS, NST submitted a vegetation management plan estimate on January 26, 2023 in the amount of \$9,800; and

WHEREAS, VLAWMO agrees enter into a contract with NST to develop the wetland vegetation management plan, pay 100% of the cost of the contract services in the amount of \$9,800, and provide management and oversight while NST develops the plan.

WHEREAS, City of White Bear Lake desires to enter into a memorandum of understanding (MOU) with VLAWMO to accept participation in the development of a Rotary Nature Preserve wetland vegetation management plan and to plan for future cost share for projects recommended in the plan.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota, that:

1. That the City Council of the City of White Bear Lake enter into a Memorandum of Understanding with Vadnais Lake Area Water Management Organization for a

RESOLUTION NO.

Wetland Vegetation Management Plan.

2. That the Mayor and City Manager are authorized to execute the Memorandum of Understanding.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on March 28, 2023 the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Jason Lindahl AICP, Community Development Director
Date: March 28, 2023
Subject: 1755 Highway 96 Request for Proposals (RFP) Solicitation

SUMMARY

The City Council will consider adopting a resolution authorizing staff to solicit request for proposals (RFP) to select a preferred developer to redevelop the city owned property at 1755 Highway 96.

BACKGROUND

During the February 21, 2023 work session, the City Council / HRA discussed both development priorities for city owned properties and overall housing policies and programs. From that discussion, it was the consensus that staff should prepare a request for proposals (RFP) to select a preferred developer to redevelop the city owned property at 1755 Highway 96.

As a result, staff has prepared the attached resolution authorizing staff to solicit RFPs to select a preferred developer to redevelop the city owned property at 1755 Highway 96. Should the City Council approve this resolution, staff will prepare a formal RFP for distribution to potential development partners. Staff will then review, score and interview potential developers. Once a preferred developer is selected, staff will come back to the City Council to authorize a specific contract. After approval of a specific contract, the preferred developer would then begin the development review process which would typically include concept plan review with a neighborhood meeting, subdivision and planned unit development (PUD).

Should the City Council authorize staff to proceed, staff will prepare a detailed RFP which will include the following Future Land Use and Housing guiding principles from the 2040 Comprehensive Plan. It should be noted that not all of these guiding principles will apply to the specific subject property but staff is listing them here so the City Council can have the full list as a reference.

Future Land Use Plan Guiding Principles

Diversity. Maintain the city's diverse mix of land uses, which contribute to its resiliency as a community. Rather than a generic landscape of uniform housing and prototypical commercial types, this mix contributes to the fabric of the city and ensures fluctuations in market and preferences won't unduly impact a large proportion of the City's built environment.

Downtown. Support and strengthen Downtown as the “heart” of the community. Continue to strengthen the critical mass of retail, restaurants, residential, office, service, and entertainment offerings in and around the downtown.

Redevelopment. Continue to focus resources on redevelopment and reinvestment. It is necessary to increase the tax base in order to continue to provide high quality services to the city’s businesses and residents. While the City is nearly built out, underutilized and appropriately situated sites offer the opportunity to redevelop land more efficiently and to introduce increased density along higher intensity corridors and activity nodes throughout the city.

Complete Community. Enhance complete community concept to create and enhance opportunities for residents to conveniently meet daily needs without having to make long trips. While is not feasible or desirable to structure all neighborhoods in this manner, it is a potential model for making places more livable at various life stages.

Resilience and Sustainability. Apply the framework of resilience and sustainability to all practices and planning. Sustainability is an important value throughout the plan. In terms of land use, it has implications from the small scale (e.g., how buildings are constructed, maintained and repurposed) to citywide (e.g., responsible use of resources and preparing for the evolving climate).

Housing Guiding Principals

Existing Housing Stock. Maintain and reinvest in housing stock to preserve and enhance property values and keep neighborhoods attractive and livable.

Housing Options. Expand housing options to meet the needs of people at all life stages and income levels to attract new residents as a growing population will contribute to high quality services, strengthen commercial districts, and lead to a more vibrant and safe community. Existing residential neighborhoods provide a wide range of housing options for residents and it is the goal of the city to continue this balance of housing options.

Compatible Design. Encourage housing development design that reflects the character of the community while still increasing the quantity and variety of housing options.

In addition to these guiding principles, staff anticipates redevelopment of the subject property would include at a minimum one single family lot sized to match the surrounding neighborhood with access from Eugene Street and a medium density residential infill parcel with access from Highway 96. Under this scenario, staff anticipates applying the Future Land Use Categories listed below. It should be noted that the entire site is currently guided Low Density Residential. The portion of the property anticipated to have a single-family lot will retain this designation but the remainder parcel intended for medium density residential will likely need both a comprehensive plan amendment and rezoning.

Future Land Use Designations

Low Density Residential. Density ranges from 3 to 9 units per acre. This category accounts for the largest percentage of the housing in White Bear Lake and most of the land use. Typical housing types include single family detached and attached when within the density range.

Medium Density Residential. Density range from 8 to 14 units per acre. Typical housing stock includes multi-unit townhomes, four-plexes, and smaller-scale apartment and senior living facilities without significant medical support services. To minimize the potential impacts of these medium density uses to single family neighborhoods, these uses are generally located along arterial and collector streets.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution authorizing staff to solicit request for proposals (RFP) to select a preferred developer to redevelop the city owned property at 1755 Highway 96.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUEST FOR PROPOSALS TO
SELECT A PREFERRED DEVELOPER TO REDEVELOP CITY OWNED
PROPERTY AT 1755 HIGHWAY 96**

WHEREAS, The City of White Bear Lake is the owner of the vacant property located at 1755 Highway 96; and

WHEREAS, During the February 21, 2023 work session, the City Council and HRA reviewed a list of city owned properties throughout the community; and

WHEREAS, From this list, the City Council and HRA identified the property at 1755 Highway 96 among the city's development priorities; and

WHEREAS, It was the consensus of the City Council and HRA that staff should prepare a request for proposals (RFP) to select a preferred developer to redevelop the property at 1755 Highway 96.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of White Bear Lake, Minnesota, hereby authorizes staff to prepare a request for proposals (RFP) to select a preferred developer to redevelop the property at 1755 Highway 96.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: March 28, 2023
Subject: **Swear-In of Police Officers**

SUMMARY

The City Clerk will administer the oath of office to our newest police officers – Campbell, Moriarty and Torvik. A pinning ceremony will conclude the presentation.



City of White Bear Lake
Police Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Julie Swanson, Chief of Police
Date: March 28, 2023
Subject: **Biennial Body Worn Camera Audit**

SUMMARY

The City Council will consider adopting a resolution accepting the 2023 Body-Worn Camera Audit.

BACKGROUND INFORMATION

Staff retained Minnesota Security Consortium to audit the Police Department's use of Body-Worn Camera (BWC) program against the requirements of Minn. Stat. § 13.825 and Minn. Stat. § 626.8473. The Minnesota Security Consortium does not operate or have access to the City's BWC systems, therefore making them eligible to audit the systems as an independent auditor.

Staff provided administrative access to the Motorola / WatchGuard system during the audit to review. Interviews and auditing of the system were conducted with the BWC Evidence Technician and myself.

The audit period covered by this report is January 1, 2021 to December 31, 2022. BWC data was sampled and audited across the audit period. Results of sampling the data and its related audit trail in the system showed that it was either not viewed at all, viewed by the officer who recorded the data, or by a department supervisor. All views and access were consistent with the Police Department's BWC policy and Minn. Stat. § 13.825 Subd. 7.

Minnesota Security Consortium found the Police Department's use of the system is in compliance with Minn. Stat. § 13.825 and Minn. Stat. § 626.8473.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution accepting the Body Worn Camera Audit as required by Minn. Stat 13.825, Subd. 9 (c).

ATTACHMENTS

Resolution
2023 Audit Executive Summary Report

RESOLUTION NO.

**RESOLUTION ACCEPTING THE BIENNIAL AUDIT OF
BODY WORN CAMERAS FOR THE WHITE BEAR LAKE POLICE DEPARTMENT**

WHEREAS, the City Council approved the Police Department's use of body-worn cameras and a corresponding policy on December 12, 2017; and

WHEREAS, Police Department uses Motorola body-worn camera's and Watchguard to manage the collected videos; and

WHEREAS, in accordance with Minn. Stat. § 13.825 Subd. 9 and Minn. Stat. § 626.8473 the Police Department must arrange for an independent biennial audit of the data collected in the use of body-worn cameras; and

WHEREAS, the biennial audit has been performed by Minnesota Security Consortium; and

WHEREAS, Minnesota Security Consortium has found the Police Department's use of the Motorola / Watchguard body-worn camera system to be in compliance with Minn. Stat. § 13.825 and Minn. Stat. § 626.8473.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the biennial audit by Minnesota Security Consortium of the Police Department's use of body-worn cameras is hereby accepted.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Minnesota Security Consortium - MNSec

Bringing Information Security to Local Minnesota Governments

White Bear Lake Police Department 2023 Body-Worn Camera (BWC) Audit

Executive Summary Report

White Bear Lake Police Department

March 8, 2023



Minnesota Security Consortium - MNSec

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Background:

White Bear Lake Police Department retained Minnesota Security Consortium to audit its agency's use of Body-Worn Camera (BWC, see Definitions Section below) program against the requirements of Minn. Stat. § 13.825 and Minn. Stat. § 626.8473. The Minnesota Security Consortium does not operate or have access to their BWC systems, therefore allowing it to audit the systems as an independent auditor. The White Bear Lake Police Department provided their administrative access to the Motorola/WatchGuard system during the audit to review audit criteria. Interviews and auditing of the Motorola/WatchGuard system was conducted with the White Bear Lake Police Department Chief of Police and BWC Evidence Technician.

Definitions:

For the purposes of this audit and report, the use of the term Body-Worn Camera (BWC) systems shall be the same as the State Statute definition of "Portable Recording Systems," as defined by Minn. Stat. § 13.825, Subd. 1 (b) as follows:

"portable recording system" means a device worn by a peace Officer that is capable of both video and audio recording of the Officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation

"portable recording system data" means audio or video data collected by a portable recording system.

"redact" means to blur video or distort audio so that the identity of the subject in a recording is obscured sufficiently to render the subject unidentifiable.

Audit Period and Scope:

The Audit Period covered by this report covers the period 1/1/21 to 12/31/22.

White Bear Lake Police Department uses the cloud-based Motorola/WatchGuard video system for its BWC program. Although their Motorola/WatchGuard system records in both in-squad cameras as well as BWC videos, the scope of the audit focused only on BWC video data.

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Required Public Hearing:

Pursuant to Minn. Stat. § 626.8473, Subd. 2, White Bear Lake Police Department allowed for public comment regarding its new BWC Program.

Community input was possible at the White Bear Lake City Council Meeting on November 28, 2017. Notice of the meeting was published in the Board Agenda ahead of time. Board Minutes of this meeting were provided to us and reviewed during the audit.

Policy

White Bear Lake Police Department has a BWC Policy in place entitled, "POST Mandated Policy # 100-16: Body Worn Camera Use: Body Worn Camera Use." Their Policy was reviewed to ensure that it contained the required elements as outlined in Minn. Stat. § 626.8473, Subd. 3.

White Bear Lake Police Department was compliant in this part of the statute.

Officer use of BWC Equipment

White Bear Lake Police Department "POST Mandated Policy # 100-16: Body Worn Camera Use" requires that Officers wear their BWC equipment and activate it during specific instances.

Approximately 52 Random Samples of dispatch Calls for Service we compared to the Motorola/WatchGuard video library to determine if they had been recording videos during those calls in accordance with their policy. In virtually all cases, each Patrol Officer appeared to be using their BWC appropriately and activating recordings as outlined in the policy section entitled, "POST Mandated Policy # 100-16: Body Worn Camera Use."

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Data Classification and Retention

White Bear Lake Police Department treats BWC data as private unless it is permitted to be released in accordance with the provisions of Stat. § 13.825, Subd. 2.

At the time of the audit, no Court mandated BWC data disclosures had been made.

White Bear Lake Police Department setup its data classification and retention schedule for BWC videos in the administrative settings of the Motorola/WatchGuard console. BWC Data is currently retained for a minimum of 90 Days, as required by Minn. Stat. §13.825, Subd. 3 (a).

When the BWC Data involves the use of force, discharge of a firearm by an Officer, or when the event triggers a formal complaint against the peace Officer, the BWC Data is retained for a minimum of 1 year in accordance with Minn. Stat. §13.825, Subd. 3 (b). At the time of the audit, White Bear Lake Police Department has set that Retention Period for these two types of incidents to “Use of Force” or “2 Year Retention.” Both of these retention periods are set for 730 Days (2 years).

In addition, all BWC footage related to discharge of a firearm by a peace Officer in the course of duty as defined by Minn. Stat. § 626.8473, Subd. 2 (1), was reviewed during the audit, due to the sensitive nature of these events. There were no reported Discharge of Firearms call during this audit period.

In addition, on specific type of Calls for Service (CFS), The White Bear Lake Police Department Records Staff also reviews related BWC videos to ensure they all related video have the same classification. Any modifications to the Classification are auditable in the Motorola/WatchGuard audit trail. Sampled BWC data was examined for Modifications to Classification tags. In a few cases there were no classifications tagged by officers in the video, but overall classification was done well. The Motorola/WatchGuard audit trail indicated who and when the re-classification was made.

BWC Data was sampled and audited across the audit period, and more intensely in the periods of November 2021 and December 2022.

White Bear Lake Police Department was compliant with its Classification and Retention requirements based on Statute, Minn. Stat. § 626.8473, Subd. 2. And Subd. 3.

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Access by Data Subjects:

White Bear Lake Police Department processes public BWC data requests, via their online “Discovery Request:”

<https://www.whitebearlake.org/publicsafety/webform/discovery-request>

Citizens can also make a request for their privately classified BWC data by visiting front desk of the Police Department lobby, using the paper form “Discovery Request.”

White Bear Lake Police Department Commanders stated they redact BWC Data when released to Data Subjects. They stated they had about 500 requests were made during the audit period.

White Bear Lake Police Department was compliant with this aspect of the Statute.

Use of Agency-Issued BWC:

Minn. Stat. § 13.825, Subd. 6 states that:

“While on duty, a peace officer may only use a portable recording system issued and maintained by the officer's agency in documenting the officer's activities.”

White Bear Lake Police Department “POST Mandated Policy # 100-16: Body Worn Camera Use,” section V.A. states:

“Officers must use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.”

White Bear Lake Police Department was compliant with this aspect of the Statute.

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Authorization to Access Data:

White Bear Lake Police Department allows its Officers to review non-public BWC data for legitimate, specified law enforcement purposes. Access is enforced using user accounts and roles/rights in the Motorola/WatchGuard system.

BWC Data was sampled and audited across the audit period, and more intensely in the periods of November 2021 and December 2022. Results of sampling the BWC Data and its related audit trail in the Motorola/WatchGuard system, showed that it was either not viewed at all, viewed by the Officer who recorded the data, or by a police supervisor.

All views and access were consistent with White Bear Lake Police Department "POST Mandated Policy # 100-16: Body Worn Camera Use" and Minn. Stat. § 13.825 Subd. 7, as authorized by the Chief of Police.

Sharing Among Agencies:

White Bear Lake Police Department treats BWC as private and may only share BWC data with other agencies when permitted by Minn. Stat. § 13.825, Subd. 8 and Subd. 7.

The request for BWC footage requires that they have a legitimate, specified law enforcement purpose, as required by Minn. Stat. § 13.825, Subd. 7.

White Bear Lake Police Department processes BWC data requests by other agencies and documents the case number. Agencies can make their request via email or the online Discovery form.

White Bear Lake Police Department was compliant with these aspects of the Statute.

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Biennial Audits:

White Bear Lake Police Department has acknowledged that it intends to continue completing biennial audits of its BWC System, as required by Minn. Stat. § 13.825, Subd. 9. There was a small gap on audit coverage since the Minnesota State Auditor's office suddenly stopped providing this service to agencies. This was their first audit Minnesota Security Consortium, and we are happy to help in the future. White Bear Lake Police Department is now on track to be compliant with this aspect of the Statute.

BWC System Vendors:

At the time of the audit, Motorola/WatchGuard was the primary vendor and system for their BWC program. BWC videos were recorded, classified, and stored in Motorola/WatchGuard cloud-based system, called CommandCentral Evidence.

Because CommandCentral Evidence is a cloud-based solution, it is subject to the requirements of Minn. Stat. § 13.825, Subd. 11 (b), which requires Motorola/WatchGuard to follow the requirements of the FBI's CJIS Policy 5.9.2 and subsequent versions. Motorola/WatchGuard has published a security white paper outlining its responsibilities for CJIS compliance, and it also stated that it has filed the appropriate CJIS Security Addendum for employee background checks with the State of Minnesota, which we verified with the BCA.

<https://www.motorolasolutions.com/content/dam/msi/docs/products/command-center-software/emergency-call-handling/securing-public-safety-software-in-the-cloud-final-whitepaper.pdf>

White Bear Lake Police Department was compliant with this aspect of the Statute.

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Conclusion:

Based on the results of the White Bear Lake Police Department BWC Audit conducted by Minnesota Security Consortium, we can demonstrate that they are using the Motorola/WatchGuard BWC System in accordance with the requirements of Minn. Stat. § 13.825 and Minn. Stat. § 626.8473.

This Audit was conducted and attested to by:



Dimitrios Hilton

Senior Auditor, Minnesota Security Consortium

Submitted to:

- White Bear Lake Chief of Police
- White Bear City Council, via the Chief of Police
- Legislative Commission on Data Practices and Personal Data Privacy
- Required Legislative members as specified by Statute



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: March 28, 2023
Subject: **Second Reading of an Amendment to the 2023 Fee Schedule**

SUMMARY

The City Council will conduct a second reading and consider adopting an amendment to the 2023 Fee schedule for the addition of associated fees related to sidewalk cafés.

BACKGROUND INFORMATION

On February 28, the City Council approved an ordinance amending the Municipal Code adopting a new Chapter 1128 to permit sidewalk cafés. Sidewalk cafes are defined as an identified portion of a public sidewalk adjacent to an eligible business within which the business is allowed by a city-issued permit to place and use tables, chairs and accessory items for the service of food or beverages to its customers for on-site consumption as part of its regular business operations. The approved ordinance allows fees to be established in the City's Fee Schedule for a sidewalk café permit application, permit renewal and administrative penalties.

The 2023 Fee Schedule, approved by City Council at its December 13, 2022 meeting, doesn't list any fees related to sidewalk cafés. Proposed additions, to be added under Sections VI Administrative Offenses and IX Planning and Zoning, are outlined below:

VI	ADMINISTRATIVE OFFENSES	FEE	LAST ADJUSTED
	<u>H. Planning and Zoning</u>		
	<u>Sidewalk Café Permit Violations</u>	<u>\$100.00</u>	<u>March 2023</u>

IX	PLANNING AND ZONING	FEE	LAST ADJUSTED
	<u>Sidewalk Café Permit</u>		
	<u>Initial application</u>	<u>\$150.00</u>	<u>March 2023</u>
	<u>Renewal with significant changes</u>	<u>\$125.00</u>	<u>March 2023</u>
	<u>Renewal with no changes</u>	<u>\$60.00</u>	<u>March 2023</u>

RECOMMENDATION

Staff recommends the City Council conduct the second reading and proceed with adopting the attached resolution amending the 2023 Fee Schedule as presented.

ATTACHMENTS
Resolution

RESOLUTION NO.

RESOLUTION AMENDING THE 2023 FEE SCHEDULE OF THE WHITE BEAR LAKE CITY CODE TO ADD SIDEWALK CAFE RELATED FEES

WHEREAS, Chapter 1128 of the White Bear Lake City Code regulates Sidewalk Cafés and requires certain permits in order to operate sidewalk cafés in public rights-of-way; and

WHEREAS, the City Council has acted to approve an ordinance (“Ordinance”) to amend Chapter 1128 to establish a new type of permit and desires to establish a fee related to the new permit and to establish additional fees related to the matters addressed in the Ordinance; and

WHEREAS, the City Council wishes to amend the 2023 adopted Fee Schedule to add sidewalk café permit fees.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of White Bear Lake that the existing 2023 Fee Schedule of the City of White Bear Lake be amended by adding the double underlined material as follows:

VI	ADMINISTRATIVE OFFENSES	FEE	LAST ADJUSTED
	<u>H. Planning and Zoning</u>		
	<u>Sidewalk Café Permit Violations</u>	<u>\$100.00</u>	<u>March 2023</u>

IX	PLANNING AND ZONING	FEE	LAST ADJUSTED
	<u>Sidewalk Café Permit</u>		
	<u>Initial application</u>	<u>\$150.00</u>	<u>March 2023</u>
	<u>Renewal with significant changes</u>	<u>\$125.00</u>	<u>March 2023</u>
	<u>Renewal with no changes</u>	<u>\$60.00</u>	<u>March 2023</u>

BE IT FINALLY RESOLVED, by the City Council as follows:

1. The amended fees shall go into effect as of the effective date of the Ordinance.
2. City staff is authorized to incorporate the amendments approved herein into 2023 Fee Schedule of the City of White Bear Lake and to take such other actions as may be necessary to put the added fees into effect.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

RESOLUTION NO.

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
 Caley Longendyke, City Clerk
Date: March 28, 2023
Subject: **Tobacco license renewals**

SUMMARY

The City Council will consider adopting a resolution approving or denying the renewal of two tobacco licenses for the business cycle April 1, 2023- March 31, 2024.

BACKGROUND INFORMATION

The City's Municipal Code requires that certain business activities in the City be licensed and comply with the terms of the license or ordinance. City licenses have a one-year term expiring on March 31. At the March 14, 2023 regular meeting, the City Council approved business license renewals for all but two establishments. The City Council voted to continue the discussion for tobacco license renewals for MNJ Tobacco Inc. and Nothing But Hemp.

A moratorium prohibiting the sale of THC products for a 12-month term was approved at the September 27, 2022 City Council meeting. The purpose of the moratorium is to allow an opportunity for the City to conduct a study to consider the development and adoption of appropriate local regulations. While the moratorium has been in effect, the Police Department has conducted compliance checks on the prohibited sale of THC products. Five tobacco-licensed establishments failed a first round of compliance checks in November 2022, and the second round in March 2023. MNJ Tobacco Inc. and Nothing But Hemp failed two compliance checks. The response to failing two compliance checks resulted in City Council voting to delay the consideration of their tobacco license renewal to the March 28 regular meeting.

Violation of selling THC products can be considered basis for denial for a tobacco license. Staff drafted two resolutions, one to approve the tobacco license renewals and one to deny the tobacco license renewals, for City Council consideration.

RECOMMENDATION

Staff recommends the City Council approve the attached resolution that approves or denies the tobacco license renewal for MNJ Tobacco Inc. and Nothing But Hemp for the business cycle April 1, 2023- March 31, 2024.

ATTACHMENTS
Resolutions

RESOLUTION NO.

**RESOLUTION APPROVING TOBACCO BUSINESS LICENSES FOR
MNJ TOBACCO INC. AND NOTHING BUT HEMP**

WHEREAS, the City of White Bear Lake’s Municipal Code requires that certain business activities in the City be licensed and comply with the terms of the license or ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the following business licenses be approved for renewal for business cycle April 1, 2023- March 31, 2024, subject to receipt of all related documentation, applicable fees, utility payments and insurance.

Tobacco Licenses

Company Name	DBA	Street Address
MNJ Tobacco Inc.	MNJ Tobacco	4074 White Bear Ave
Nothing But Hemp	Nothing But Hemp	4762 Banning Avenue

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

RESOLUTION NO.

**RESOLUTION DENYING TOBACCO BUSINESS LICENSES FOR
MNJ TOBACCO INC. AND NOTHING BUT HEMP**

WHEREAS, the City's Municipal Code requires that certain business activities in the City be licensed and comply with the terms of the license or ordinance; and

WHEREAS, licenses issued by the City have a one-year term expiring on March 31; and

WHEREAS, the City Council considered business license renewals for the April 1, 2023-March 31, 2024 licensing period at its meeting on March 14, 2022 and it acted to approve all of the licenses with the exception of the tobacco licenses for MNJ Tobacco Inc. and Nothing But Hemp (collectively, the "Licensees"), which were held over for a hearing and further consideration at the March 28, 2023 City Council meeting; and

WHEREAS, the City provided the Licensees written notice of a hearing to be held at the City Council meeting on March 28, 2023 to consider the possible suspension or non-renewal of their tobacco licenses; and

WHEREAS, the City Council conducted a hearing on March 28, 2023, provided the Licensees an opportunity to be heard regarding the potential suspension or non-renewal of their tobacco licenses, considered the matter, and hereby finds and determines as follows:

- (a) Under Chapter 1104 of the Municipal Code, no person is allowed to sell tobacco products or delivery devices in the City without first obtaining a license from the City to do so.
- (b) The City previously issued each of the Licensees a tobacco license and each applied to renew their licenses for the new annual term starting April 1, 2023.
- (c) On September 27, 2022, the City Council adopted Ordinance No. 22-09-2057 imposing a moratorium on selling THC products within the City.
- (d) The City conducted compliance checks on several businesses within the City and both MNJ Tobacco Inc. and Nothing But Hemp failed the compliance checks for selling THC products in violation of the moratorium.
- (e) The City conducted another round of compliance checks several weeks later and both Licensees were found to be continuing to stock and sell THC products in violation of the moratorium.
- (f) The City issued misdemeanor citations to each of the Licensees for violating the City's moratorium.

RESOLUTION NO.

- (g) The City has broad authority under Section 1.03 of the City Charter and the general police powers provided under Minnesota Statutes, section 412.221, subdivision 32 to impose business licensing requirements, administer licenses, and to take action to suspend, revoke, or non-renew a license when needed.
- (h) In addition to the general licensing authority, Minnesota Statutes, section 461.12 provides the City express authority to “license and regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices” Additionally, Minnesota Statutes, section 461.19 makes clear the tobacco statutes “do not preempt a local ordinance that provides for more restrictive regulation of the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products.”
- (i) Section 1104.040 of the Municipal Code provides grounds for denying or not renewing a tobacco license. The Municipal Code makes clear that the list of grounds set out in section “is not exhaustive or exclusive.” By adopting this section, the City Council recognized that any attempt to list the grounds for taking action against a license is necessarily incomplete and that its list was not intended to be exhaustive or exclusive.
- (j) The primary purpose of licensing businesses is to protect public health, safety, and welfare. If a business is found to be operating in a manner that threatens public safety or otherwise violates state or local laws, a city has the authority to take action against the license in order to protect the public.
- (k) The Licensees are well aware of the moratorium the City imposed to temporarily prohibit the sale of THC products within the City. One of the Licensees actively opposed the adoption of the interim ordinance imposing the moratorium.
- (l) As a result of the first round of compliance checks, five businesses were found to be in violation of the moratorium. All of the businesses were notified of the violation. The second round of compliance checks confirmed that three of the businesses pulled the THC products from their shelves and were no longer selling those products. However, the Licensees were found to be continuing to stock and sell THC products in blatant violation of the City’s moratorium.
- (m) The moratorium was established to protect public safety while the City studies the issue and determines the appropriate means of regulating the sale of THC products after what amounted to surprise legalization by the Legislature.
- (n) The Licensees knowingly stocking and selling products in violation of the City’s moratorium shows a willful and flagrant disregard of local laws. Such conduct

RESOLUTION NO.

directly relates to the operations of the Licensees’ businesses and demonstrates an apparent willingness to place profits over legal compliance.

- (o) The City Council finds the open, willful, and continued violation of local law by the Licensees creates a risk to public safety, is exactly the type of conduct Section 1104.040 of the Municipal Code attempts to capture as grounds for taking action against a license, and serves as more than a sufficient basis on which to refuse to renew the Licensees’ tobacco licenses.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of White Bear Lake, Minnesota that the following business licenses be denied for renewal for the April 1, 2023 - March 31, 2024 business cycle.

Tobacco Licenses

Company Name	DBA	Street Address
MNJ Tobacco Inc.	MNJ Tobacco	4074 White Bear Ave
Nothing But Hemp	Nothing But Hemp	4762 Banning Avenue

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

- Ayes:
- Nays:
- Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Kennedy

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Graven

CHARTERED

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<http://www.kennedy-graven.com>

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MEMORANDUM

To: White Bear Lake City Council
 Lindy Crawford, City Manager

From: Troy Gilchrist, City Attorney

Date: March 23, 2023 (for March 28, 2023 Regular Meeting)

Re: Proposed Concurrent Detachment and Annexation of
 Certain Property to the City of Mahtomedi

The Mahtomedi City Attorney approached me about the City of Mahtomedi being interested in annexing property consisting of approximately 1.36 acres from the City of White Bear Lake. The property proposed to be annexed into Mahtomedi is a 100-foot-wide strip of land that runs south from Wildwood Road and is surrounded on three sides by Mahtomedi.

Under Minnesota Statutes, section 414.061, the process to annex property between cities is called concurrent detachment and annexation. This process can be achieved simply through a joint resolution adopted by each city council. After discussing this matter with the City Manager, I worked with the Mahtomedi City Attorney to prepare the enclosed resolution. Though we made it clear to Mahtomedi that we wanted their City to process and act on the resolution first.

Mahtomedi communicated with the owners of the property, who did not express opposition to the jurisdictional change. Then, on March 21, 2023, the Mahtomedi City Council adopted the enclosed resolution without any opposition. The enclosed resolution approving the proposed concurrent detachment and annexation is now before the White Bear Lake City Council for consideration. If approved, Mahtomedi will be responsible for filing the resolution with the state boundary adjustments office to complete the process.

I will be happy to answer any questions the City Council may have.

**CITY OF WHITE BEAR LAKE
RESOLUTION NO. _____**

**CITY OF MAHTOMEDI
RESOLUTION NO. 2023-15**

**A JOINT RESOLUTION REQUESTING CONCURRENT DETACHMENT FROM
WHITE BEAR LAKE AND ANNEXATION INTO MAHTOMEDI OF CERTAIN LANDS
PURSUANT TO MINNESOTA STATUTES SECTION 414.061**

WHEREAS, certain real property, legally described on the attached **Exhibit A** and shown on **Exhibit B** (the “Annexation Property”) is located in the City of White Bear Lake; and

WHEREAS, the Annexation Property is located on the border of the City of Mahtomedi and the City of White Bear Lake; and

WHEREAS, the Annexation Property consists of approximately 1.36 acres; and

WHEREAS, the City of White Bear Lake and the City of Mahtomedi want the Annexation Property to be located within the corporate limits of the City of Mahtomedi; and

WHEREAS, the City of White Bear Lake and the City of Mahtomedi want to modify their mutual municipal boundary to permit the Annexation Property to be located within the City of Mahtomedi; and

WHEREAS, to modify the boundary, the City of White Bear Lake desires to detach and the City of Mahtomedi desires to annex the Annexation Property pursuant to Minnesota Statutes, § 414.061.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MAHTOMEDI AND THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE AS FOLLOWS:

1. The Cities of White Bear Lake and Mahtomedi jointly request that the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit concurrently detach the Annexation Property from the City of White Bear Lake and annex the same to the City of Mahtomedi at the earliest possible date.
2. That this Joint Resolution be submitted to the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit for the purpose set forth herein.

3. That the City of Mahtomedi agrees to be responsible for all costs associated with the annexation, including, but not limited to, the preparation and filing of the resolution and boundary maps with the Office of Administrative Hearings.
4. That this Joint Resolution may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

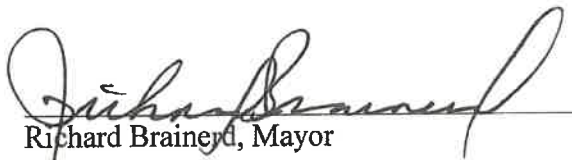
Adopted by the City Council of the City of White Bear Lake on the _____ day of _____, 2023.

Dan Louismet, Mayor

Attest:

Caley Longendyke, City Clerk

Adopted by the City Council of the City of Mahtomedi on the 21 day of March, 2023.


Richard Brainerd, Mayor

Attest:


Jerene Rogers, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF ANNEXATION PROPERTY

Real property located in Washington County and legally described as follows:

Lot 8, Block 1 and Lot 8, Block 4, all in McGill's Corner, Washington County, Minnesota; together with that part of Mae Avenue as dedicated by the plat of McGill's Corner, as is on file and of record in the office of the County Recorder, Washington County, Minnesota lying westerly of that part of Mae Avenue as vacated by City of Mahtomedi Notice of Completion of the Partial Vacation of a Street by Resolution Pursuant to Minnesota Statutes § 412.851 and §462.358, Subd. 7, filed September 18, 2018, as Document No. 4168789 and lying easterly of that part of Mae Avenue as vacated by Notice of Vacation of Alley filed March 27, 1978, as Document No. 372489, all on file in the office of the County Recorder of Washington County, Minnesota.

EXHIBIT B DEPICTION OF ANNEXATION PROPERTY



Annexation and Detachment
Mahtomedi, MN

