



AGENDA
REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, AUGUST 8, 2017
7:00 P.M. IN THE COUNCIL CHAMBERS

1. CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

Minutes of the Regular City Council Meeting on July 25, 2017

3. APPROVAL OF THE AGENDA

4. VISITORS AND PRESENTATIONS

A. Retirement recognition – Roger Jensen, City Attorney

B. White Bear Lake Lions Club contribution to the Clark Avenue flagpole monument restoration

5. PUBLIC HEARINGS

A. Public Hearing on the reissuance of Educational Facilities Refunding Revenue Note, Series 2011

6. LAND USE

A. Consent

1. Consideration of a Planning Commission recommendation for approval of a request by Joel Moline for three variances for the property located at 2521 Manitou Island. (17-17-V)

B. Non-Consent

1. Consideration of a Planning Commission recommendation for denial of a request by Admiral D's for a Conditional Use Permit Amendment and a variance for the property located at 4424 Lake Avenue South. (08-3-Sa and 17-13-V) **Continued per the request of the applicant.**

7. UNFINISHED BUSINESS

Nothing scheduled

8. ORDINANCES

Nothing scheduled

9. NEW BUSINESS

A. Resolution designating City Attorney – Counselor for the remainder of 2017

B. Resolution supporting the Rice Creek Watershed District Master Water Stewards Program

C. Resolution supporting a VLAWMO grant application for the 4th and Otter Wetland Retrofit Project

10. HOUSING AND REDEVELOPMENT AUTHORITY

- A. Roll call
- B. Approval of the Agenda
- C. Approval of the July 25, 2017 meeting minutes
- D. Resolution approving execution of cross access easement between the HRA and Muellner Family LLLP
- E. Resolution approving execution of a termination of assessment agreement between the HRA and the Muellner Family LLLP
- F. Adjournment

11. CONSENT

- A. Resolution approving Ladies of the Lake open market event – September 23rd
- B. Resolution approving a massage therapist license
- C. Acceptance of May White Bear Lake Conservation District Minutes, June Park Advisory Commission Minutes, July Planning Commission Minutes

12. DISCUSSION

13. COMMUNICATIONS FROM THE CITY MANAGER

- Metropolitan Council Water Efficiency Grant
- Budget Work Session – August 8

14. ADJOURNMENT



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Ellen Richter, City Manager

From: Anne Kane, Community Development Director

Date: August 3rd for the August 8, 2017 City Council Meeting

Subject: **FRASSATI CATHOLIC ACADEMY (f/k/a ST. MARY OF THE LAKE SCHOOL) PROJECT/Amendment of the Educational Facilities Refunding Revenue Note – PUBLIC HEARING**

BACKGROUND

On December 28, 2011, the City issued the Education Facilities Refunding Revenue Note (St. Mary of the Lake School Project), Series 2011 in the principal amount of \$8,212,904. In 2013 and 2014, the City Council adopted resolutions to allow modifications to the Loan Agreement resulting in a lower interest rate each time. At the June 27, 2017 meeting, the City Council adopted Resolution No. 12055 approving the third amendment to the Note.

SUMMARY

Following the adoption of the Resolution, the City's bond counsel, Julie Eddington of Kennedy & Graven, noted that the original Loan Agreement was executed by St. Mary's of the Lake School and the proposed amended Agreement was to be executed by Frassati Catholic Academy. To ensure compliance with IRS regulations, it was advised the City conduct a Public Hearing to ensure interested parties understand the relationship between the school and the academy. A Public Hearing has been noticed for the August 8th City Council meeting to gather any citizen input and comment. The terms of the Loan Agreement and the Revenue Note remain unchanged.

RECOMMENDED COUNCIL ACTION

Please forward the attached resolution to the City Council for consideration at its August 8th meeting, which, if approved, affirms the City's concurrent that the original Note issued to St. Mary's of the Lake School may be transferred and assumed by Frassati Catholic Academy. The Resolution also authorizes the Mayor and City Manager to execute the Agreement and other such documents as Bond Counsel considers appropriate in connection with the amendment of the Note. Staff recommends the Authority adopt the resolution as presented.

ATTACHMENT

Resolution

RESOLUTION NO. _____

RESOLUTION RATIFYING AUTHORIZATION OF THIRD AMENDMENT OF THE
\$8,212,904 EDUCATIONAL FACILITIES REFUNDING REVENUE NOTE, SERIES 2011
(ST. MARY OF THE LAKE SCHOOL PROJECT)
AND THE EXECUTION OF DOCUMENTS RELATING THERETO

WHEREAS, on December 28, 2011, the City of White Bear Lake, Minnesota (the “City”) issued its \$8,212,904 Educational Facilities Refunding Revenue Note, Series 2011 (St. Mary of the Lake School Project) (the “Note”) made payable to Premier Bank (the “Lender”) and loaned the proceeds of the Note to The Church of St. Mary of the Lake, of White Bear, Minnesota, a Minnesota religious corporation (the “Borrower”), pursuant to a Loan Agreement dated as of December 28, 2011, between the City and the Borrower, as amended by a Loan and Modification Agreement dated as of April 1, 2013 between the City, the Borrower, and the Lender, and as further amended by a Loan and Modification Agreement dated as of June 13, 2014 between the City, the Borrower, and the Lender (collectively, the “Loan Agreement”) to refinance certain tax-exempt and conventional debt used to provide funds for capital projects related to the non-religious portions of a school for grades preschool through 8 (the “School”) formerly known as St. Mary of the Lake School and now known as, and operated by, Frassati Catholic Academy, a Minnesota nonprofit corporation (the “Academy”), located at 4690 Bald Eagle Avenue in the City; and

WHEREAS, pursuant to a Pledge Agreement dated as of December 28, 2011 between the City and the Lender, the City assigned its rights and interests under the Loan Agreement (except for certain rights of payment and indemnification) to the Lender; and

WHEREAS, the Borrower has secured payment of its obligations under the Loan Agreement, including repayment of the Note, by delivery to the Lender of the Mortgage, a Security Agreement, and a Pledge and Security Agreement (all as defined in the Loan Agreement); and

WHEREAS, in order to lower the interest rate on the Note, the Borrower and the Lender have agreed to modify certain provisions in the Note and related documents and have asked the City to enter into an amendment to effect such changes, as evidenced by a Loan and Modification Agreement to be dated in August, 2017 (the “Agreement”); and

WHEREAS, on June 27, 2017, the City Council of the City adopted Resolution 12055 (the “Approving Resolution”) approving the form of the Agreement and authorizing the execution thereof; and

WHEREAS, subsequent to adopting the Approving Resolution, the City has held, on the date hereof, following due publication of notice thereof, a public hearing with respect to the requested modifications of the Loan Agreement, including the recognition that the School is now operated by the Academy;

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

The Approving Resolution is hereby affirmed and ratified without amendment, and remains in full force and effect.

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

Ayes:

Nays:

Passed:

Jo Emerson, Mayor

Attest:

Kara Coustry, City Clerk

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss
CITY OF WHITE BEAR LAKE)

I, the undersigned, being the duly qualified and acting City Clerk of the City of White Bear Lake, Minnesota, hereby certify that I have carefully compared the attached and foregoing Resolution No. ____ with the original thereof on file in my office and the same is a full, true and complete copy passed by the White Bear Lake City Council on August 8, 2017.

Kara Coustry

(SEAL)



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Ellen Richter, City Manager
From: Elizabeth Showalter, Planning Intern
Date: August 1, 2017 for the August 8th City Council Meeting
Subject: Joel Moline – 2521 Manitou Island

REQUEST

Three variances to construct a 1,200 square foot underground garage addition:

- A 1,264 square foot variance from the 1,000 square foot limit for a primary accessory structure;
- A 1,014 square foot variance from the 1,250 square foot limit for all accessory structures combined;
- A 25 foot variance from the 40 foot setback from the street side property line.

SUMMARY

No one from the public spoke to the request.

RECOMMENDED COUNCIL ACTION

On a 5-0 vote, the Planning Commission recommended approval of the variances as presented staff, with further clarification that the variances may only be used to construct an underground addition to the existing garage.

ATTACHMENT

Resolution

RESOLUTION NO. _____

**RESOLUTION GRANTING THREE VARIANCES
FOR 2521 MANITOU ISLAND
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, a proposal (17-17-V) has been submitted by Gunderson Construction, Inc., on behalf of the property owner, Joel Moline, to the City Council requesting approval of a variance from the Zoning Code of the City of White Bear Lake for the following location:

LOCATION: 2521 Manitou Island

LEGAL DESCRIPTION: PID # 133022430017

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: a 1,264 square foot variance from the 1,000 square foot limit for a primary accessory structure; a 1,014 square foot variance from the 1,250 square foot limit for all accessory structures combined; both per Code Section 1302.030, Subd.4; and a 25-foot variance from the 40-foot setback from the road-side property line, per Code Section 1303.030, Subd.c.1; and

WHEREAS, the Planning Commission held a public hearing as required by the Zoning Code on July 31, 2017; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variances upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variances will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Code.
2. The variances are a reasonable use of the land or building and the variances are the minimum required to accomplish this purpose.
3. The variances will be in harmony with the general purpose and intent of the City Code.
4. The variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

5. The non-conforming uses of neighboring lands, structures, or buildings in the same district are not the sole grounds for issuance of the variances.

FURTHER, BE IT RESOLVED, that the City Council of the City of White Bear Lake hereby approves the requested variances, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.060, Subd.3, the variances shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. The applicant shall verify the property lines and have the property pins exposed at the time of inspection.
4. A building permit shall be obtained before any work begins.
5. The variances shall only be used for the construction of an underground addition to the existing garage and shall not be unearthed.

Prior to the issuance of building permits:

6. Erosion control plan shall be submitted, subject to staff approval. Erosion control plan must include plan for storage of removed sediment to be retained on site.
7. Tree preservation and replacement plan shall be submitted, subject to staff approval. Plan shall include protection of the trees to be retained.
8. Landscape plan utilizing native plants shall be submitted, subject to staff approval, for the area above the garage addition.
9. Current survey displaying the location of the existing driveway shall be submitted.

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

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office.
I have read and agree to the conditions of this resolution as outlined above.

Joel Moline

Date



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Ellen Richter, City Manager

From: Anne Kane, Community Development Director

Date: August 3, 2017 for the August 8, 2017 City Council Meeting

Subject: Admiral D's / 4424 Lake Avenue South – Case No. 08-03-Sa & 17-13-V

SUMMARY

Brian McGoldrick has requested a continuance of consideration of this matter to the August 22, 2017 City Council meeting due to a scheduling conflict. He has provided written request agreeing to extend the timeframe for an additional 30 days - extending the deadline for City Council action to September 21, 2017.

ATTACHMENT

Note from Mr. McGoldrick



DOCKS OF WHITE BEAR LAKE

4424 Lake Avenue South • White Bear Lake, Minnesota 55110 • Ph: 651-387-1000

8/2/2017

I agree to extend the timeframe an
additional 30 days to ensure adequate time
for the city council to make a decision
on my request at the August 22nd meeting.

Sincerely

B. J. McMillan
President McMillan & Sons

RECEIVED
AUG 02 2017
BY: _____



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Ellen Richter, City Manager
From: Rick Juba, Assistant City Manager
Date: August 3, 2017
Subject: Appointment of City Attorney

BACKGROUND

Section 4.20 of the City Charter assigns to the City Council the responsibility for annual appointment of the City Attorneys. The Charter also defines the duties and responsibilities of the City Attorney. Specifically, the City Charter provides:

Section 4.20. City Attorney.

“The City Council shall have the power to appoint a City Attorney or Attorneys and fix the compensation to be paid to said City Attorney or Attorneys, who shall be a member or members of the bar of the State of Minnesota. Such attorney or attorneys may be appointed for one year, but shall be removable at the pleasure of the Council.”

Section 4.21. City Attorney -- Duties.

“The duties of such City Attorney or Attorneys shall include:

To act as the legal advisor, attorney and counsel for the City and for all officers, departments, and agencies thereof, on City business;

To prosecute all suits, actions and proceedings for and on behalf of the City, and defend all suits, actions and proceedings against the City;

To prepare all contracts, bonds, and other legal instruments, in writing, in which the City is interested or concerned, and endorse upon each an approval form; however, an approval of bonds to be issued by the City may be covered by separate certificate which is to be filed with the records of the City Council;

To be the prosecuting attorney for the prosecution of violations of City ordinances and franchises;

To perform such other duties as may be required by ordinance or resolution.”

Roger Jensen (of Counsel with the firm Miller, O’Brien, Jensen) is currently appointed City Attorney, with Robb Olson (of Counsel with GDO Law) is appointed for prosecutorial service. Jensen advised the City in 2016 that he planned to retire in 2017 and the action requested of the City

Council is to appoint his replacement. No changes are recommended to the City's prosecutorial contract with Robb Olson.

Following Roger Jensen's announcement of his plans to retire mid-year 2017, the City Council approved a request for proposals for civil legal (City Attorney) services. In response, the City received eleven (11) proposals. Each proposal was reviewed by the selection committee, members of which had been appointed by the Mayor; the committee included the Mayor, two Councilmembers, the City Manager, Assistant City Manager and Community Development Director. Of the eleven proposals, four were selected for interviews.

While all four (4) firms demonstrated the capacity and experience, the selection committee determined that the qualifications and interview presentation of Andrew Pratt from Eckberg Lammers were particularly impressive and best suited for the City. The Committee was impressed with the level of detail and research that Mr. Pratt put into both the written proposal and the interview. In addition to his experience in general municipal law, Mr. Pratt specializes in public finance, economic development and real estate law. The two attorneys designated by the firm as the City's Assistant City Attorneys, Amanda Prutzman and Patrick Sweeney, specialize in labor/employment law and municipal law. The selection committee was impressed by the experience, demeanor and communication skills of all three attorneys. Eckberg Lammers is located in Stillwater; there are seventeen (17) attorneys and over twenty (20) support staff at the firm.

The City Council held a special meeting on July 8th prior to its regular meeting to provide opportunity for the entire Council to interview Mr. Pratt. There have been no additional questions or concerns raised regarding the recommendation of the selection committee since that time.

Mr. Pratt has proposed a monthly retainer fee of \$3,000, which will cover the following services:

- Attend all City Council meetings
- Review all City contracts/agreements
- Answer all routine inquiries from City Staff and the City Council
- Non-litigation employment law inquiries (excludes union negotiations)
- Statutory interpretation
- Review of established contracts for annual services and joint powers agreements.

Services outside of the retainer would include the following:

(Attorney will advise Staff prior to beginning work outside of the retainer)

- Circuit court and appellate litigation
- Complex real estate work (condemnation/land acquisition/easement/ROW)
- Labor negotiations
- Administrative hearings
- Developer project-based services or disputes

Hourly rates for work performed outside of the retainer are proposed as follows:

Attorney:	\$150
Paralegals:	\$80

Law Clerks:	\$75
Developer Reimbursed Work:	\$210

RECOMMENDED COUNCIL ACTION

Staff recommends Council adopt the resolution as presented.

ATTACHMENTS

Resolution

Contract

RESOLUTION NO.

RESOLUTION DESIGNATING CITY ATTORNEY -- COUNSELOR --

WHEREAS, the City seeks legal advice and services related to municipal civil matters; and

WHEREAS, after careful review and consideration of the City's legal needs and the qualifications of eleven law firms responding to the City's request for proposals, the City Council has chosen to appoint Andrew Pratt from the firm Eckberg Lammers as City Attorney with occasional adjunct assistance from other associates he may assign; and

WHEREAS, the City Council desires to establish the terms and conditions of the City Attorney appointment,

BE IT RESOLVED by the City Council of the City of White Bear Lake that pursuant to §4.20 of the White Bear Lake Home Rule Charter, Andrew Pratt and the firm Eckberg Lammers are hereby appointed City Attorney-Counselor, for a term expiring December 31, 2017 or until a successor is appointed, according to the terms, conditions and responsibilities set forth below.

1. **City Attorney - Duties.** The duties of the City Attorney shall be to act as the legal adviser, attorney and counsel for the City and for all officers, departments, and agencies thereof, on City business; defend all suits, actions and proceedings against the City unless a special attorney is assigned.

To prepare or review as determined as appropriate and necessary all contracts, bonds, and other legal instruments, in writing, in which the City is interested or concerned, and endorse upon each an approval form; however, an approval of bonds to be issued by the City may be covered by separate certificate which is to be filed with the records of the City Council;

To perform such other duties as may be required by ordinance or resolution and to maintain a legal library and support services necessary to fulfill these functions.

Keep the City Council and the City Manager apprised of legal issues and responsibilities through issuance of written opinions and advisory memoranda.

2. **Compensation.** The City Attorney shall be compensated through a monthly retainer and hourly rate as follows:

- A. A monthly retainer of \$3,000 shall be paid for the following services:

1. Attend all City Council meetings
2. Review all City contracts/agreements
3. Answer all routine inquiries from City Staff and the City Council
4. Non-litigation employment law inquiries (excludes union negotiations)
5. Statutory interpretation
6. Review of established contracts for annual services, joint powers agreements and vendor services.

- B. An hourly rate shall be paid for the following services:

1. Circuit court and appellate litigation

RESOLUTION NO.

- 2. Complex real estate work (condemnation/land acquisition/easement/ROW)
- 3. Labor negotiations
- 4. Administrative hearings
- 5. Developer project-based services or disputes

Hourly rates for work performed outside of the retainer are as follows:

Attorney:	\$150
Paralegals:	\$80
Law Clerks:	\$75
Developer Reimbursed Work:	\$210

- C. Payment of the retainer and hourly fee shall be made by the City to the Attorney following receipt of a monthly invoice or statement which itemizes each project or suit for which the hourly fee is to be applied providing the date, activity and length of time applied.

The City Attorney will advise the City Manager's Office each time a new account is established for which the hourly fee will be claimed.

- 3. **Performance Review.** During the fourth quarter of 2017, the City Council will meet with the City Attorney for the specific purpose of discussing the performance of the City Attorney and his firm as it relates to the City's legal needs and the City Council will provide constructive direction as appropriate.

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

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk

CONTRACT FOR CIVIL LEGAL SERVICES

This CONTRACT FOR CIVIL LEGAL SERVICES (the “Agreement”) is entered into by and between the CITY OF WHITE BEAR LAKE, a home-rule charter city and political subdivision of the State of Minnesota (the “City”), and the law firm of ECKBERG LAMMERS, P.C., a Minnesota professional corporation (the “Law Firm”), for the purpose of utilizing the Law Firm to provide various comprehensive civil legal services to the City.

RECITALS AND COMPENSATION SCHEDULE

1. By Request for Proposals for Professional Civil Legal Services, dated May 2017 (the “RFP”), the City solicited proposals for civil legal services.

2. The Law Firm submitted a proposal to provide comprehensive civil legal services, and proposes this Agreement to represent the City accordingly.

3. This Agreement shall be effective from August 1, 2017, to and including December 31, 2017, and then pursuant to Section 4.20 of the Charter of the City of White Bear Lake, Minnesota, the parties hereto intend to negotiate and execute new legal services agreements for successive one-year terms.

4. Attorney Andrew Pratt of the Law Firm shall be designated as the “City Attorney” and shall be responsible for assuring the performance of the Law Firm’s obligations under this Agreement and shall be the initial point of contact for the Mayor, City Council and Department Heads.

5. Compensation: Compensation due from the City to the Law Firm under this Agreement shall be as follows:

- a. **General Services.** The Law Firm will charge a monthly retainer for “general services,” hereafter defined under this Agreement, as follows: \$3,000 per month.
- b. **Extraordinary and Specific Legal Services.** The Law Firm will charge per hour for all legal services provided under this Agreement that are not covered in the monthly retainer as “general services,” as follows:

	2017
Hourly Rate – Attorney	\$150
Hourly Rate – Support Personnel	
Paralegals	\$80
Law Clerks	\$75
Developer-Reimbursed Rate	\$210

All attorneys, paralegals, and law clerks will bill the City at the hourly rates specified above. If a project or transaction is ultimately paid for by a third party, such as a developer, through an escrow or some other reimbursement to the City, the Law Firm will charge at the “Developer-Reimbursed Rate.”

c. **Expenses to be billed:**

The City will reimburse the Law Firm for actual, necessary and reasonable costs and expenses incurred by the Law Firm in the performance of “extraordinary and specific legal services” contained in this Agreement. These costs and expenses include but are not limited to courier or delivery charges, process server fees, court filing fees, and document recording fees. These fees and expenses will be prominently highlighted on the Law Firm’s monthly invoice to the City.

NOW THEREFORE, IN CONSIDERATION OF the mutual promises contained herein and other good and sufficient consideration, the parties hereto agree to the following:

TERMS AND CONDITIONS

1. Scope and Nature of General Services: The parties agree to the following description of the nature of the comprehensive “general services” to be provided by the Law Firm to the City under the retainer fee specified above.

- a. Attendance at regular or special City Council meetings and City board and commission meetings as directed, including but not limited to the City’s Planning Commission.
- b. Review of City Council and Planning Commission agenda items and minutes.
- c. Availability for consultation with the City Council, City Manager, Department Heads and other City staff.
- d. Drafting and revisions to various legal documents, ordinances, resolutions, forms, notices, certificates, deeds, correspondence and regulations.
- e. Drafting and revisions to municipal contracts, joint powers agreements, bidding documents, equipment purchase and lease documentation, project plans and specifications, and the like.
- f. Review of contractor/vendor bond and insurance documents.
- g. City Code codifications and recodifications.

- h. Research and preparation of legal opinions on municipal or other legal matters as requested by the Mayor, City Council, City Manager or Department Heads.
- i. Provide regular updates on significant developments in laws affecting the City to the City Manager, Mayor, City Council and Department Heads. These updates may take the form of presentations to City staff and City officials on topics selected by the Law Firm and the City, with special emphasis on new developments in the law (e.g. labor/data practices/land use issues).
- j. Provide a yearly legislative update in a City Council workshop setting.

2. Scope and Nature of Extraordinary and Specific Services: The parties agree to the following description of the nature of the legal services to be provided by the Law Firm at the specific request of the City hereinafter described the “Extraordinary and Specific Services”.

- a. Condemnations
- b. Enforcement of City building, housing and zoning codes, and environmental matters
- c. Development Agreements (non-public finance)
- d. Sales of City-owned property
- e. Purchases of private property by the City
- f. Non-routine development of contracts or contract addenda, specifications and contract negotiations
- g. Claims not covered by insurance or as the City’s insurance carrier’s legal representative
- h. Special assessment-based issues and public improvement projects
- i. Easements and right-of-ways, including vacations
- j. Specific development projects

3. Additional Matters: The City has regularly retained other law firms to perform these services and reserves the right, in its sole discretion to continue that practice. The parties contemplate that the Law Firm may also provide additional civil legal services. These services shall be handled as follows:

- a. **Contested Case Matters:** The Law Firm may provide, and the City shall utilize the Law Firm for representation in contested cases, such as general litigation matters and appellate work, provided the City determines, in its reasonable discretion, that the Law Firm has the skill and experience to represent the City in a fashion that the City deems to be in its best interests given the expertise, costs, and litigation service delivery available from other law firms in the Twin City Metropolitan Area.
- b. **Bond Attorney Matters:** The Law Firm is a “nationally recognized bond counsel” under the requirements of *The Bond Buyer’s Municipal Marketplace* (also known as the “Redbook”). As long as the Law Firm remains as such under the requirements of the Redbook, the Law Firm may provide bond attorney and public finance services to the City. The parties hereto will timely communicate this representation to the City’s independent municipal advisor. The Law Firm may perform such services under a separate flat-fee structure, which will be timely communicated to the City.
- c. **Economic Development Counsel:** The Law Firm may provide economic development services including advice on tax increment financing (TIF), tax abatement, business subsidy, and other development matters, including the drafting of and revisions to development agreements, assessment agreements, TIF development agreements, and the like. The Law Firm may adjust its billing rate accordingly, to conform to the “Developer-Reimbursed Rate” fee schedule outlined in this Agreement, or may extend a flat fee billing scenario to cover the work, all in consultation with the City Manager.
- d. **Prosecuting Attorney Matters:** The Law Firm acknowledges that the City is separately contracted to a firm that provides criminal prosecution services. The Law Firm is able to represent the City in this area if the City desires or if a conflict arises on a case-by-case basis from the City’s current prosecution firm.
- e. **Labor and Employment Matters:** The Law Firm may provide labor and employment law services to the City, including representation for staff disciplinary matters, union negotiations, personnel policies, contested cases, employment contracts, and other similar services.
- f. **Matters Covered by Insurance:** The Law Firm may assist the City in submitting claims for insurance coverage to various insurance carriers, the most prominent of which is the League of Minnesota Cities Insurance Trust (LMCIT). Whenever a claim is made with an insurance carrier which arises out of a legal issue against the City the Law Firm may coordinate services with the insurer’s counsel. When an insurance carrier admits coverage, and to the extent that it will provide retroactive payments for attorneys’ fees, the Law Firm will receive its payments for services rendered from the insurance carrier and not the City. To the extent that an insurance carrier does not pay

for legal services rendered by the Law Firm, including any deductibles, the City will pay the Law Firm for services rendered, subject to billing rates and payment provisions set forth in this Agreement.

4. Miscellaneous:

- a. **Conflict of Interest:** The Law Firm will notify the City as soon as practicable if the Law Firm represents or has ever represented an opposing party to the City in a legal matter.
- b. **Attorney/Client Privilege:** The Law Firm is authorized to utilize e-mail without encryption to transmit and receive confidential client information. The City specifically acknowledges that it understands the confidentiality risks associated with inadvertent interception of such information.
- c. **Insurance:** The Law Firm shall maintain professional liability (malpractice) insurance at a minimum coverage level of \$1,000,000 per claim, and \$3,000,000 annual aggregate. The Law Firm shall provide a current Certificate of Insurance to the City upon request.

5. Billing Format, Cycle, Payment Expectations and Interests.

- a. **Billing Format:** The Law Firm will submit monthly billing statements for General Services and Extraordinary and Specific Services. All services billed outside of the monthly retainer will be broken down into categories for ease of review by the City. Time shall be billed in tenths of an hour.
- b. **Billing Cycle:** The Law Firm will bill monthly for legal services rendered in the prior month. Generally, bills will go out approximately 7-10 days after the end of the prior month, and Law Firm personnel will work with the City to timely place bills on the next City Council agenda.
- c. **Payment Expectations:** The City will pay the bill of the Law Firm routinely according to its internal payment procedures by forwarding a check to the Law Firm paying for both legal services and expenses shown on the invoices.
- d. **Disputes:** In the event that the City disputes any aspect of the Law Firm's invoice, the appropriate City representative will contact Andrew Pratt at the Law Firm stating the nature of the dispute.
- e. **Term:** As specified in the Recitals and Compensation Schedule hereof, the term of this Agreement will be from August 1, 2017, to and including December 31, 2017. During the term of this Agreement, either party may terminate this Agreement upon 60 days' written notice to the other party.

**CITY OF WHITE BEAR LAKE,
MINNESOTA**

ECKBERG LAMMERS, P.C.

By: _____
Jo Emerson, Mayor

By: _____
Andrew J. Pratt
City Attorney

By: _____
Ellen Richter, City Manager

Dated: _____, 2017

Dated: _____, 2017



City of White Bear Lake
City Engineer's Office

MEMORANDUM

To: Ellen Richter, City Manager
From: Connie Taillon, Environmental Specialist
Date: August 8, 2017
Subject: **Rice Creek Watershed District Master Water Stewards Program Support**

BACKGROUND

The Master Water Stewards Program is an education and outreach program designed to provide citizen volunteers with the knowledge and skills needed to improve water quality at the local level. The program was developed by Freshwater Society in 2013; Rice Creek Watershed District (RCWD) became a partner and sponsor in 2016 along with Capitol Region Watershed District and Ramsey-Washington Metro Watershed District.

Each Master Water Steward must participate in coursework, commit to 50 hours of volunteer service for water quality in the first year and 25 in subsequent years, and complete a capstone project in their community. The District pays for the program registration and awards funds from the cost-share program to support the capstone projects.

RCWD sees the Master Water Stewards program as a way to develop partnerships, expand outreach, and build capacity for water quality projects in the watershed. The District is interested in working with the City of White Bear Lake to identify and support a Master Water Steward dedicated to this area. If approved, a resolution of support from the Council will accompany a grant application submitted by the RCWD on behalf of this program.

RECOMMENDED COUNCIL ACTION

Staff is requesting City Council's consideration approving a resolution of support for RCWD to recruit a Master Water Steward in the City of White Bear Lake. Staff recommends the Council approve the resolution as presented.

ATTACHMENTS

Resolution

RESOLUTION NO.:

RESOLUTION OF SUPPORT FOR THE RICE CREEK WATERSHED DISTRICT TO RECRUIT A MASTER WATER STEWARD TO LEAD WATER QUALITY EFFORTS IN THE CITY OF WHITE BEAR LAKE

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

WHEREAS, the City identifies White Bear Lake as an important regional asset and understands the importance of protecting the water quality of the lake; and

WHEREAS, the Rice Creek Watershed District (RCWD) participates in a regional Master Water Stewards program to expand outreach and build capacity for water quality projects in the watershed; and

WHEREAS, RCWD is recruiting for the next class of Master Water Stewards and is interested in working with the City of White Bear Lake to identify and support a Master Water Steward dedicated to this area.

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

1. The City Council fully supports Rice Creek Watershed District efforts to engage a Master Water Steward volunteer to lead water quality projects in the City of White Bear Lake.

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

vote:

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk



City of White Bear Lake
City Engineer's Office

MEMORANDUM

To: Ellen Richter, City Manager

From: Mark Burch, Public Works Director/City Engineer

Date: August 3, 2017

Subject: **VLAWMO Grant Application for the 4th and Otter Wetland Retrofit Project**

Staff will present more information about a potential retrofit project that would improve the quality of stormwater entering Birch Lake from the northeast. A resolution will also be presented to the City Council for consideration which would offer City support to a VLAWMO grant application to assist with funding the project.



**MINUTES OF THE MEETING OF THE
HOUSING AND REDEVELOPMENT AUTHORITY
OF WHITE BEAR LAKE, MINNESOTA
HELD ON TUESDAY, JULY 25, 2017**

1. CALL TO ORDER AND ROLL CALL

HRA Chair Biehn convened the meeting of the Housing and Redevelopment Authority at 8:40 p.m.

Members Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones and Bill Walsh were present.

2. APPROVAL OF THE AGENDA

It was moved by Member **Jones** seconded by Member **Edberg**, to approve the agenda as presented.

The motion carried unanimously.

3. APPROVAL OF THE MINUTES

It was moved by Member **Jones** seconded by Member **Edberg**, to approve the May 23, 2017, HRA Meeting Minutes.

The motion carried unanimously.

4. RESOLUTION AUTHORIZING AGREEMENT WITH HABITAT FOR HUMANITY FOR IMPROVEMENTS TO THE 3695 ST. REGIS DRIVE PROPERTY

Community Development Director Kane explained that the authorization of an agreement with Habitat for Humanity outlines improvements that will be completed to the property at 3695 St Regis Drive. She added, as specified in the draft development agreement, transfer of property must occur no later than October 31, 2017, with renovation to commence no later than December 31, 2017 and completion and sale by June 1, 2018.

Member Edberg asked whether there will be economic impact from previous transactions related to this property.

Community Development Director Kane stated the City obtained a HOME grant from Ramsey County for acquisition costs totaling 25% of property market rate of \$100,000, or \$26,000. She added Mr. Edberg may be referring to outstanding back taxes that had accumulated on the property. She noted the City Staff have worked with Ramsey County and the property's previous owner to resolve contractual issues related to the re-purchase of the property in January 2016, however, they learned there is no legal means to refund a portion of the repurchase payment since it was all applied to past due taxes.



*MINUTES OF THE MEETING OF THE
HOUSING AND REDEVELOPMENT AUTHORITY
OF WHITE BEAR LAKE, MINNESOTA
HELD ON TUESDAY, JULY 25, 2017*

It was moved by Member **Jones** seconded by Member **Engstran**, to approve **Resolution No. 17-04** authorizing the agreement with Habitat for Humanity property at 3695 St. Regis for an affordable housing homeownership opportunity.

The motion carried unanimously.

5. ADJOURNMENT

It was moved by Member **Walsh**, seconded by Member **Jones**, to adjourn the HRA. There being no further business before the HRA, Chair Biehn adjourned the meeting at 8:44 p.m.

Doug Biehn, Chair of HRA

Ellen Richter, Executive Director



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Ellen Richter, City Manager

From: Jacquell Nissen, Housing and Economic Development Coordinator

Date: August 3, 2017 for the August 8th HRA Meeting

Subject: **OAK RIDGE BUSINESS CENTER/Cross Access Easement and Termination of Assessment Agreement**

BACKGROUND

On June 13, 1995 the City of White Bear Lake Housing and Development Authority (HRA) and Commonweal Development Corporation entered into a Development Agreement for the Oak Ridge Business Center Redevelopment Project. The City contributed Tax Increment Financing (TIF) for the construction of public improvements in and adjacent to the Development including a shared parking lot. An Assessment Agreement was executed between the HRA and Mueller Family Partnership LLLP (Muellner) in regards to maintaining a minimum property value for the Redevelopment Project. The HRA owns property adjacent to the Oak Ridge Business Center Building which provides some of the parking needs for the property through a lease with the Oak Ridge Business Center owner.

SUMMARY

As per the Development Agreement, the parking continues to be provided on the HRA parcel for the operations at the Oak Ridge Business Center. The Development Agreement states that rights to parking and access on the HRA parcel should be secured by proper documentation including: cross easements, lease or use agreements and amendments to the parking lease. Muellner and the HRA have been operating under the assumption an access easement has been in place since the respective properties were developed. However, as Muellner is under contract for sale of their property, it was recently discovered that in fact an access easement does not exist. The proposed Cross Access Agreement between the HRA and Muellner will provide the proper documentation for the parking access across the properties.

The Assessment Agreement was entered into on September 15, 1999 and expired December 31, 2016 and was intended to ensure a minimum property value was maintained to generate the necessary TIF Funds. The proposed Termination of Assessment Agreement provides the proper documentation for termination of the Assessment Agreement between the HRA and Muellner.

RECOMMENDED COUNCIL ACTION

Please forward the attached resolutions to the HRA for consideration at its August 8th meeting,

which, if approved, authorizes the Chairman and Executive Director to execute all documents necessary to provide the proper documentation for parking access at Oak Ridge Businesses Center as stated in the original Development Agreement, and proper documentation to terminate the Assessment Agreement between the HRA and Muellner.

ATTACHMENTS

1. Draft Resolution to execute a Cross Access Easement between the HRA and Muellner Family LLLP.
2. Draft Resolution to execute a Termination of Assessment Agreement between the HRA and Muellner Family LLLP.

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF WHITE BEAR LAKE
COUNTY OF RAMSEY, STATE OF MINNESOTA**

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING A CROSS ACCESS EASEMENT

WHEREAS, the City of White Bear Lake Housing and Redevelopment Authority (the "HRA") and Commonweal Development Corporation ("Redeveloper") entered into a Development Agreement for the Oak Ridge Business Center Redevelopment Project on June 13th, 1995; and

WHEREAS, the City contributed Tax Increment Financing (TIF) for the construction of public improvements in and adjacent to the Development including a shared parking lot; and

WHEREAS, per the Development Agreement, the shared parking rights were to be secured by the appropriate documentation; and

WHEREAS, proper documentation was never recorded for proper parking access for the Development; and

WHEREAS, the HRA parcel and Muellner Family LLLP ("Muellner") parcel are contiguous and Muellner and the HRA desire to establish, grant and convey a perpetual non-exclusive reciprocal easement for access purposes for vehicular and pedestrian ingress and egress over certain roadways which run through the Muellner and the HRA parcel.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners ("the Commissioners") of the Housing and Redevelopment Authority in and for the City of White Bear Lake, Minnesota (the "Authority") as follows:

The Chairman and Executive Director are hereby authorized to execute a Cross Access Easement for documentation to establish, grant and convey a perpetual non-exclusive reciprocal easement for access purposes for vehicular and pedestrian ingress and egress over certain roadways which run through the Muellner and the HRA parcel.

Adopted by the Board of Commissioners of the Housing and Redevelopment Authority of the City of White Bear Lake this ____ day of _____, 2017.

Doug Biehn, Chairman

ATTEST:

Ellen Richter, Executive Director

CERTIFICATION

I, Ellen Richter, Executive Director of the Housing and Redevelopment Authority in and for the City of White Bear Lake, County of Ramsey, State of Minnesota, hereby certify that the foregoing is a true and correct copy of Resolution No. _____ passed by the Authority on the ____ day of _____, 2017.

Ellen Richter, Executive Director

**HOUSING AND REDEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF WHITE BEAR LAKE
COUNTY OF RAMSEY, STATE OF MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE EXECUTION OF THE TERMINATION OF AN
ASSESSMENT AGREEMENT**

WHEREAS, the City of White Bear Lake Housing and Redevelopment Authority (the "HRA") and Mueller Family LLLP ("Redeveloper") entered into a certain Assessment Agreement dated September 15, 1999 and recorded January 25, 2001 as document No. 1624447 in the office of the Registrar of Titles in and for Ramsey County, Minnesota in connection with the real property located in White Bear Lake, Ramsey County, Minnesota; and

WHEREAS, on December 31, 2016 the terms of the Assessment Agreement have terminated and is no longer in force or effect; and

WHEREAS, The HRA and Redeveloper desire to enter into this agreement for evidence to the termination of the Assessment Agreement with a termination date of December 31, 2016;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners ("the Commissioners") of the Housing and Redevelopment Authority in and for the City of White Bear Lake, Minnesota (the "Authority") as follows:

The Chairman and Executive Director are hereby authorized to execute a Termination of Assessment Agreement between the HRA and Redeveloper.

Adopted by the Board of Commissioners of the Housing and Redevelopment Authority of the City of White Bear Lake this ____ day of _____, 2017.

Doug Biehn, Chairman

ATTEST:

Ellen Richter, Executive Director

CERTIFICATION

I, Ellen Richter, Executive Director of the Housing and Redevelopment Authority in and for the City of White Bear Lake, County of Ramsey, State of Minnesota, hereby certify that the foregoing is a true and correct copy of Resolution No. _____ passed by the Authority on the ____ day of _____, 2017.

Ellen Richter, Executive Director



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Ellen Richter, City Manager
From: Kara Coustry, City Clerk
Date: August 2, 2017
Subject: Ladies of the Lake – Use of Railroad Park

BACKGROUND

The City allows for special events in public spaces including City Parks. Special event permits are typically approved by staff. On occasion the City receives an application that involves the sale of alcohol by a licensed vendor, or as in this case, the use of a public space for commerce.

The Ladies of the Lake hosted their first open air market in Railroad Park in September, 2016.

SUMMARY

Ladies of the Lake includes the following seven (7) similar downtown merchants: Sweet Home, Truly, Reuse Restyle, Rewind Alley, Missy's Boutique & Consignment, Antiques White Bear, Inc. and Farmer's Daughter. This group is proposing to join together and host a sales event under 10 x 10 tents in Railroad Park on September 23, 2017 from 10:00 a.m. to 5:00 p.m. Guitar music will be offered in the gazebo. No alcohol sales are being proposed in conjunction with the event at this time.

Staff has no objection to the application, provided tents are sandbagged, rather than staked. Driving on the premises is prohibited due to irrigation systems and turf concerns. Because this proposed event involves commercial use of a public space, staff is seeking the approval of the City Council for this event.

RECOMMENDED COUNCIL ACTION

Staff recommends Council adopt the resolution as presented.

ATTACHMENTS

Resolution

RESOLUTION NO.

**A RESOLUTION APPROVING A SINGLE EVENT
FOR COMMERCE AT RAILROAD PARK**

WHEREAS, an application has been submitted by Ladies of the Lake to host an event at Railroad Park where items will be sold; and

WHEREAS, Ladies of the Lake includes seven different merchants from downtown; and

WHEREAS, no alcohol will be sold at the event.

NOW THEREFORE, BE IT RESOLVED that the White Bear Lake City Council approves the use of Railroad Park by Ladies of the Lake on September 23, 2017 subject to the following conditions:

1. No tent stakes are permitted to be placed into the ground.
2. No vehicles are permitted on park grounds.
3. The applicant must coordinate appropriate sanitation and refuse collection with City staff.
4. Park rental at the same rate as Podvin Park resident fee.

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

Ayes:

Nays:

Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Ellen Richter, City Manager
From: Kara Coustry, City Clerk
Date: August 3, 2017
Subject: Massage Therapist Licenses

BACKGROUND

On January 1, 2016, City Ordinance 1127 went into effect which requires all persons performing massage therapy and related businesses to be licensed. The licensee is required to submit documentation which demonstrates they have received the appropriate training and insurance. A criminal history check and financial review are also conducted and approval from the Council is required for all massage related licenses.

SUMMARY

The City received a complete massage therapist license application for Rachael Lynn Wright to work at DW Therapeutic Massage located at 4066 White Bear Avenue, Suite 2. DW Therapeutic Massage has been a licensed massage therapist establishment since licensing began in 2016. A background check is underway in the Police Department, but has not yet been completed.

DW Therapeutic Massage has been in operation for several years and is licensed accordingly. There have been no issues of concern related to this business and staff does not anticipate any issues to arise in the course of the background investigation. In an effort to expedite issuance of this permit, staff is requesting consideration of this application contingent upon a satisfactory investigation so the applicant does not have to wait until the August 22nd meeting for Council approval.

RECOMMENDED COUNCIL ACTION

Staff recommends approval of Ms. Wright's massage therapist license contingent on a satisfactory background investigation.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION APPROVING MASSAGE THERAPIST LICENSES
FOR THE BUSINESS CYCLE ENDING MARCH 31, 2018**

BE IT RESOLVED by the City Council of the City of White Bear Lake that the following massage therapist license be approved contingent upon a satisfactory background investigation by the City of White Bear Lake's Police Department for the business cycle ending March 31, 2018.

Massage Therapist

Rachel Wright	DW Therapeutic Massage 4066 White Bear Avenue, Suite 2
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The foregoing resolution offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk



REGULAR MEETING OF THE WHITE BEAR LAKE CONSERVATION DISTRICT
7:00 P.M. WHITE BEAR CITY HALL
MINUTES of May 16, 2017

APPROVAL DATE 7/18/2017May

1. CALL TO ORDER The May meeting of the White Bear Lake Conservation District was convened by Chair Bryan DeSmet at 7:00 pm in the Council Chambers.

2. ROLL CALL Present were: Chair Bryan DeSmet, Vice Chair Mark Ganz, Directors: Mike Parenteau, Susie Mahoney, George St. Germain, Scott Costello, Paul Steinhauser, and Pat McCann. Absent were Diane Longville & Gene Altstatt, both excused. A quorum was present.

3. AGENDA

Add item 8a2. Temporary hire for administrator position

Add item 8b2. Harrod Mahoney letter

MOTION #1 (DeSmet / McCann) Move to approve agenda with additions. All aye, passed

4. APPROVAL OF MINUTES

MOTION #2 (DeSmet / Parenteau) Move to approve minutes with changes noted. All aye passed.

5. PUBLIC COMMENT TIME

None

6. NEW BUSINESS

None

7. UNFINISHED BUSINESS

None

8. REPORTS/ACTION ITEMS

8a. Executive Committee

Intend to meet with all communities to get feedback regarding WBLCD.
Met with City of WBL City Manager already. Discussed coordinating on commercial bay, board correspondence.

8a1. Draft social media policy. Review and take action at June meeting.

Parenteau - Who is eligible to post?

Costello – 1 board member and administrator. Primarily Facebook focus.

DeSmet – education committee chair and administrator could post, others can provide suggestions. Table until next month so people have time to review

8a2. Temporary hire for Administrator

City and township suggested \$20/hr. as pay rate

MOTION #3 (DeSmet/Parenteau) Move to hire Mary Harrington on temporary basis to serve as administrator up to 85 hours per month temporarily until we fill position.

Discussion

Mahoney – will she need more hrs?

DeSmet - Can hire at 85 and if not enough, increase. Or allocate more hours now.

Costello – could go up to 100, permanent hire will need more hours long term

Julie was up to 112 / month

***MOTION #3 Amendment (Costello / Parenteau) Amend to up to 100 hours per month.
All aye passed***

DeSmet - Hiring process for permanent part time is an opportunity to get input from all board members as to what position entails. Update job description. Would anyone on the board like to lead effort? Get ideas for process to executive committee.

Costello – suggest asking city HR people for assistance

8b. Lake Level Resolution Committee

No report

8c. Lake Quality Committee

8c1. Level 923.2. (100 yr average 924.23) 1 ¼ ft higher than last year

8c2. Temp 68 degrees

8c3. EWM bids. Lake Restoration indicated depth of 4 feet on bid (too shallow), additional cost for deep treatment.

Lake management uses average depth of 6 ft, will go deeper without additional charge.

Lake Restoration will rebid after they get survey map, also provided a low cost on 24-d.

Lake Management DMA 4 product available, different than trichlopyr. No restriction for swimming or fishing; restriction on irrigation with water. Used on 6 out of 7 lakes in MN. May be good time to change for 1-2 yr for best results.

DeSmet – DMA 4 has 24-d in it at lower concentrate and other ingredients.

Controls vegetation in aquatic environments

Parenteau - Would like to use DMA 4 with lake management. Know they'll come out and not re-bid. We had diminished results with the trichlopyr last year.

Kantrud – you don't have another bid for DMA4 for comparison.

Parenteau - Lake Restoration doesn't use. There aren't many people that do this; may be one in Brainerd

Kantrud – check with McComas

Parenteau – dosage and products are as approved by DNR . Have worked with Lake Management for years and have been pleased

MOTION # 4 (Parenteau/Ganz) Move to accept bid from Lake Management and treat with DMA4. All aye, passed

Mike will research further if there are others

DeSmet – we could have special meeting if other applicator is found. This is a specialty service. Next year could research further

8d. Lake Utilization Committee

8d1. 54 Peninsula Road. Better drawing has been requested. Problem at site with loitering. Owner has 1200 ft lake frontage on 8 acres. Requesting 2nd dock to keep DNR boat and as fishing dock. This is one of only shorelines on lake that has 2 docks. Swim buoy in ADUA.

MOTION #5 (Ganz / St Germain) Move to approve dock as one year variance permit.

Discussion

Ganz - Will be pulled in 10 ft so within ADUA. DNR boat currently on shore. Uses to monitor the weather station.

Kantrud – other point on why this is worthy of variance?

Ganz – allow DNR and U of M people to monitor at site, wanted to have a fishing dock, not blocking navigation, plenty of room, permit given for 1 year. One other property (Fletcher Driscoll) is allowed 2 docks for regatta boats. Reasonable and unique, in public interest due to safety factor at site.

Costello – there have been vocal groups in past wanting to use this area, does this allow for use or will it generate more complaints?

Ganz – 2 parties have been working together to come up with solution

DeSmet – is the entire area still navigable?

Ganz – yes

St Germain – off point and north side is where heavy usage area is

Mahoney – Ramsey beach will be open this year also

MOTION #5 vote: All aye –passed (Approval tabled at this (June) meeting. Before approval, this section needs to be compared to DVD to verify accuracy—requested by S. Mahoney and directed to staff by DeSmet, Chairman, —will be re- approved at July meeting. (Accuracy of measurements or angles—not possible to verify - photo submitted was out of date with comments); for reference, 5/16/17 written comments from the Mahoneys are attached to the official May minutes of this meeting). (Corrections found are in blue below)

8d2. Harrod / Mahoney

Ganz- read the order issued. Angle of Mahoney dock is not at same angle as other 3 to north. Appears to be 10' from ordinary high water mark into convergence.

Kantrud – we have an e-mail from Mahoney stating angle is same as before.

Order intention was for angles to not converge, prior years seemed to work well.

Susie Mahoney, 479 Lake Ave - Ganz looked at dock from Harrod property not from our property. We contend that Harrods don't have dock in correct place based on tax records of frontage (Admin note: tax and plat frontage given were different). Their dock isn't in compliance, off by 3 feet. Our opinion is

Harrods angling north towards us

DeSmet – understand docks on north side are parallel to Harrods

Ganz – Mahoney dock is converging; was 10' off property line last year.

Kantrud – suggest we table for review and accept email as response.

St Germain – angle of dock is separate issue from frontage

McCann – conflict of interest with Susie being on Board ?

MOTION #6 DeSmet: Move to table until next month; Mahoney second: All aye –passed

8e. Lake Education Committee

Wirebuilt report showing website visits up over last year. Would like to update website and refresh content. Would like to have contact information for each board member on site. Looking into email.

8f. Treasurer's Report

MOTION # 6 (DeSmet/Parenteau) Motion move to approve May treasurers report and pay checks 4412 – 4417. All aye passed.

2018 budget planning

Discussion was held on budget and line item amounts. Julie will send out the changes made tonight, vote on final next month

8g. Board Counsel Report

No longer in litigation with DNR. DNR will hold public meeting prior to June 7. DeSmet – potential dates are June 5 or June 8

8h. Administrative Staff Report

Items included in packet this month:

- Agenda
- April meeting minutes
- Finance report
- 2018 budget draft
- Draft media policy
- Dock variance application

9. CONSENT AGENDA

MOTION #7 (DeSmet / Parenteau) Move to approve. All aye passed

10. ANNOUNCEMENTS

none

11. ADJOURNMENT

MOTION #8 (St Germain /Ganz) Move to approve. All aye passed.

ATTEST:

Administrative Secretary

July 18, 2017

APPROVED:

Board Chairperson

July 18, 2017

PARK ADVISORY COMMISSION MINUTES

JUNE 15, 2017

6:30 P.M.

CITY HALL

MEMBERS PRESENT	Bill Ganzlin, Bryan Belisle, Anastacia Davis, Dan Louismet, Mike Shepard, Don Torgerson, Joann Toth,
MEMBERS ABSENT	
STAFF PRESENT	Mark Burch, Mike Natterstad
VISITORS	Ryan Schutte, Mark Woodcock
NOTE TAKER	Mark Burch

1. CALL TO ORDER

Bill Ganzlin called the meeting to order at 6:30 pm.

2. APPROVAL OF MINUTES

Approval of the minutes from May 18, 2017 was moved by Dan Louismet and seconded by Mike Shepard. Motion carried.

3. APPROVAL OF AGENDA

Joann Toth moved to approve the June 15, 2017 agenda, seconded by Bryan Belisle. Motion carried.

4. COMMITTEE REPORTS

None.

5. UNFINISHED BUSINESS

a) Podvin Park Lacrosse Discussion

Lacrosse representatives Mark Woodcock and Ryan Schutte discussed the Lacrosse Association proposal for development of lacrosse fields at Podvin Park. The Park Commission discussed the various options for field realignment, fence requirements and future restroom/concession/storage building. The Commission and Lacrosse Representatives agreed that the North-South alignment of 3 fields (as show on attached aerial photo) is the preferred alternative with field #3 shifted north, to center it in the park space. This will provide additional setback from this field to the residential property on 7th Street. The Lacrosse Association understands that the fields will be shared with other park users and that any future building would be multi-use also. The Park Commission adopted a motion by Dan Louismet and seconded by Mike Shepard to recommend this layout to the City Council. The Lacrosse Association will investigate the cost of installing fencing and a concrete maintenance strip for possible installation in the fall of 2017. The Engineering Department will determine availability of sanitary sewer service for a potential future utility/restroom building.

The Park Commission discussed the vandalism problems that have been experienced this year. A solution was proposed to install signs offering a reward for information regarding vandals. The staff will investigate how these signs could be placed and what level of reward would be offered.

6. NEW BUSINESS

a) 2017 Summer Park Tour

June	McCarty Park – Basketball Court possibilities
July	Matoska Park
August	White Bear Lake Municipal Marina (Dan’s boat)
September	To Be Determined

The Park Commission reviewed the history and use of McCarty Park. The park is in good condition with play equipment, picnic tables and an open play field. Neighborhood residents have requested the installation of a basketball court. The Park Commission reviewed the site and thought a court could be installed on the west side of the park.

7. OTHER STAFF REPORTS

a) Potential Clark Avenue Flagpole Memorial Restoration Project

Mike Shepard and Mark Burch updated the Park Commission on fundraising efforts for the Clark Avenue Flagpole Project. The goal is to raise funds and have work completed by Veterans Day 2017.

b) Sports Center Update

Mark Burch updated the Park Commission on progress of the Sports Center Renovation Project. The project is moving forward rapidly with support from the City Council and skating community. The project is proposed to start construction in April 2018.

8. COMMISSION REPORTS

None.

9. OTHER BUSINESS

None.

10. ADJOURNMENT

The next meeting will be held on July 20, 2017 at 6:30 p.m. at Matoska Park.

There being no further business to come before the Park Commission, the meeting was adjourned. Moved by Mike Shepard and seconded by Joann Toth. Motion carried.

**MINUTES
PLANNING COMMISSION MEETING
CITY OF WHITE BEAR LAKE
JULY 31, 2017**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, July 31, 2017, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Jim Berry.

1. CALL TO ORDER/ROLL CALL:

MEMBERS PRESENT: Chair Jim Berry, Mary Alice Divine, Peter Reis, Ken Baltzer and Mark Lynch.

MEMBERS EXCUSED: Marvin Reed.

MEMBERS UNEXCUSED: Erich Reinhardt.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator, Elizabeth Showalter, Planning Intern and Amy Varani, Recording Secretary.

OTHERS PRESENT: Brian McGoldrick, Jeff Moelter, Bob Fletcher, Jan and Keith Dehnert, Katie West and Dick Gunderson.

2. APPROVAL OF THE JULY 31, 2017 AGENDA:

Member Reis moved for approval of the agenda. Member Baltzer seconded the motion, and the agenda was approved (5-0).

3. APPROVAL OF THE JUNE 26, 2017 PLANNING COMMISSION MEETING MINUTES:

Member Lynch moved for approval of the minutes. Member Divine seconded the motion, and the minutes were approved (5-0).

4. CASE ITEMS:

A. Case No. 08-3-Sa and 17-13-V: A request by **Admiral D's** for a Conditional Use Permit Amendment for a 1,012 sq. ft. building addition and rooftop seating per Code Section 1303.227, Subd.4.a, and a 50 foot variance from the 50 foot setback from the ordinary high water level per Code Section 1303.230, Subd.5.a for the property located at 4424 Lake Avenue South.

Kane summarized the case, providing an overview of the site's history and the proposed components of the applicant's request. She noted with the requested expansion and the recent addition of the cruise boat, staff completed an updated

parking analysis of the White Bear Shopping Center, which confirmed there is a small cushion of excess parking available in the shopping center. She indicated this is a complex and multi-layered zoning request. While some aspects of it are acceptable, staff does not find that the variances are reasonable and not the minimum necessary to alleviate the practical difficulty of the lot size and shape. The 50 foot setback has been in place since the mid-1980's. Some of the older establishments in the Marina Triangle district do not meet the standard. However, new buildings and expansions are expected to abide by this regulation. If the setback variances are granted for the building and the roof structure over the patio, it may set expectations that future development in the Shoreland Overlay District need not abide by this regulation. However, with modifications, staff can support the covered patio and rooftop seating. If there is support from the Planning Commission for these aspects of the application, staff would recommend denial of this application be forwarded to the City Council and general consensus among the Planning Commission to a future reduction or waiver in the 6 month waiting period before a new CUP amendment could be submitted.

Staff included the action timeline at the end of the staff report because it's imperative that the City Council take action on this application no later than August 22nd of this year. It is scheduled to go before the City Council on August 8th if the Planning Commission reaches a recommendation this evening.

Staff recommends denial of the variance from the Ordinary High Water Line (OHWL), denial of the Conditional Use Permit (CUP), and waiver of the 6 month waiting period to reapply for a CUP.

Divine asked why the south property line runs at such an angle. Kane stated that she can't answer why it does that. She thinks it was a surprise. There was one application in 2007 that assumed that it ran in a more east-west direction rather than at this north-south angle. A survey of the property was secured and it showed that Lion's Park actually had a north-south terminus.

Divine asked about the louvered roof. When they're closed, can rain get in? Kane confirmed it's watertight. Internal rain gutters are in the support structure. The applicant did not get into a lot of those details of creating a landscape plan and engineering the storm water management for this proposal at staff's direction to not incur those costs. If the applicant was proceeding without staff's support, staff did not want to see them spending good money after bad if it's not going to get supported at a policy level. If certain components move forward, then the applicant will have more confidence in investing those dollars to come up with those designs that would then be part of a future application so that staff's expectations are all documented and detailed.

Berry asked about the DNR requirement as far as any modifications made to the deck. Would any of this project be considered a modification to the deck? Kane responded that staff is recommending denial; therefore, there is no modification to the deck approved. Staff did want to include that in the report so the applicant was aware that the DNR order stands that was agreed to in 2010. If there is modification in the future, that the extension water ward over the OHWL, the footings and the

deck would have to be removed. If there's general consensus to come back with a revised application that would include modifications to the deck, at that point, the DNR would likely enforce that 2010 agreement. Berry asked if the improvements were to hang back out of the 25-foot impact zone, would it not trigger DNR enforcement? Kane stated no, there would still be modifications to the deck and DNR's Restoration Order would apply.

Reis was curious about the possibility of a revised application; is there room to expand the building in any other direction? Kane stated that they could go north from the existing building. The applicant and his design team will need to find the right balance between how much kitchen area there will be and the number of seats.

Lynch asked what riparian rights are. Kane stated that when a property on a lake is divided by a public right-of-way, easement of some sort or prescriptive road from where the principal use is usually located away from the water.

Lynch asked about the western 25-foot setback. Is that where the DNR says you can't build anything too high and closer to the water than that? Kane stated that the 'Shore Impact Zone' is one half of the setback from the OHWL. It's the premiere area where they want to maintain the vegetative buffer and maintain the mature trees. The DNR, in developing the regulations for all of the lakes in Minnesota, is not only looking at land side uses, but the public's enjoyment from the lakeside.

Lynch asked if the 50-foot setback is a city zoning requirement. Kane stated that is correct; it was developed through negotiation with the DNR during adoption of the Shoreland Overlay District. The Shoreland Overlay District applies to all of the surrounding zoning that abuts White Bear Lake and other lakes within the City.

Lynch asked questions that he had for the applicants. What type of parking relationship do they have with the shopping center? Are the drop shades going to be on the lake side or are they going to be on the Lake Avenue side? He'd also like to know how the louvered roof works.

Berry opened the public hearing.

Bob Fletcher, 458 Oak Creek Drive S., Vadnais Heights, spoke. He has spent a lot of time on the lake. The lake is a gem, which is a regional asset second to none. They eat at Admiral D's, as well as other nearby restaurants. There's not enough infrastructure in terms of restaurants and places to sit and ways that people can enjoy the lake in this area. People are lined up that can't get a table. Most people on the docks are coming from other places than White Bear Lake. They're shopping at Kowalski's and stopping in Downtown White Bear Lake. This is a great magnet for economic development. What McGoldrick is proposing is needed. More people will be coming here with the Rush Line going in. We need more places to go and enjoy this regional asset.

The applicant, Brian McGoldrick, 36 Moonlight Bay, Stillwater, spoke. He stated that the DNR did not deny his application. He talked about a lawsuit involving the

Hubbard family in the City of Afton, conversations with the DNR about the bump-out of the deck beyond the OHWL, and 20 boat slips in front of the marina for transient parking. The bump out was for ADA access from the boats to the restrooms in the building. With the lake level being down, they haven't been able to implement the rest of it, but that was the only way to get people from the docks to the restaurant. He pointed out that he's the one who discovered that the property line runs at an angle. To answer Lynch's question about parking, he's a tenant of the White Bear Shopping Center. He has a ground lease, but the property is still maintained by the Trach family. He has paid for 7 sewer access charges, but he only uses 4.77 of them, with 2.23 extra. Staff is saying that the proximity of the building would set a precedent, but he questions who it is for. No other businesses on the water could come forward because everyone else is "maxed out" on their space.

He handed out packets with aerial photos. He had a survey done of the VFW and Tally's buildings. The setback from the OHWL for Tally's is 12.9 feet and the VFW is 7.4 feet. He expressed a misconception that expanding a line of non-conformity has some relation to the location of buildings on other neighboring properties and that is what was granted by the City Council past approval in 2007. He mentioned that he also leases space in the shopping center for storage and a prep kitchen and claimed that all the deliveries are made there so they are not blocking the flow of traffic on Lake Avenue.

He stated that a 900 square foot building doesn't work for him. They'd like to stay open year-round. He talked about the elements driving patrons away, the need for shades and the louver system. He wants to compare codes with other cities in relation to parking requirements associated with the dinner boat. As far as expanding north, there's a big power box there. He wants the roof top bar so as to have separation for patrons from families with children.

Reis asked McGoldrick if it's normal to have a kitchen that's equal to 50% the size of the restaurant. McGoldrick stated that they played the hand that they were dealt. After they put in the bathrooms, they had this. That's why they have the other kitchen across the street in the shopping center, it's their prep kitchen. They'd have to keep it even with their revised request. It would allow them to shorten their times and be more efficient.

Reis asked if McGoldrick has an alternate plan in case his request for a variance to move 50 feet towards the water gets denied. McGoldrick explained why they configured the building the way they did. They didn't give a whole lot of thought to going a different direction, it didn't seem to make sense. Reis asked if they could. McGoldrick replied that he didn't think so.

Jeff Moelter, Prescott, Wisconsin, and owner of Open Air Solutions, the louvered roof consultant, came up to answer questions.

Lynch asked what a louvered roof is and how it works. Moelter explained that there's an aluminum beam structure, and then louvers that run similar to a wooden pergola. The louvers are powered and they rotate. They can lay flat and they interlock. It allows them to catch all the water, which then runs to the sides of the

louvers and into the gutters.

Divine asked if they're load bearing, and how they handle snow. Moelter responded that they are designed and engineered to support the snow load.

Moelter addressed the retractable sides. The advantage of them is that you're only using them for a couple hours in the evening at a peak time when the sun is at just the right angle. They are somewhat opaque; you can see through them to some extent. There's not 100% blockage.

Divine asked for clarification on the OHWL. Did the DNR require the building to be set back to the OHWL? Kane stated that the City's zoning code does require it. That (the Shoreland Overlay) was adopted in conjunction and in collaboration with the DNR in about 1985. The City does have authority to grant variances from that standard. Divine asked about the setbacks for Tally's and the VFW. Kane stated that they were preexisting before the mid-1980's and before adoption of the Shoreland Overlay regulations.

Berry appreciates what McGoldrick has done with his business, as well as what the other businesses in the Marina Triangle area have done. Whoever was at those properties at the time that they were built, the current setback was not in place. But at the time that McGoldrick did decide to build Admiral D's, he did know what all the restrictions were at the time that he got it approved and built this. The Planning Commission is being asked to change the rules of the game afterward.

Baltzer stated that he was on the Planning Commission when this came before them in 2008. The original plan for the building was all made out of glass that they could see through. That's the way it was presented to the Planning Commission. However, within a short amount of time when it got to the City Council, it suddenly became a brick building. If he'd known it was going to be a brick building, he would have never voted for it in the first round. He disagreed with McGoldrick as to what type of band he was told would be playing there. He has heard rock bands, and the neighbors have called to complain about the noise. He has a tough time believing what's here is what he's eventually going to see because it hasn't transpired that way before. He's got a tough time supporting this request.

Lynch feels it's a very small strip of land. It started out as a marina, and then it went to a shed, and then a shed with food, and then went to a small restaurant, and now it's looking to go to a bigger restaurant. It seems to be creeping bigger and bigger. There's a certain limit that can be done there when it comes to the nature of what the lake area is. The VFW and Tally's were just lucky because they've been there for 30 or 40 years or longer. He said that if things need to be expanded, then something entirely different needs to be reworked. He's very concerned about the proximity to the lake, the cover to the patio, and the way the roof access would end up right next to the road by the park. He's not saying the rooftop is not doable. He thinks it needs to be looked at in a completely different way. He's going to be voting against this tonight. He wouldn't mind seeing a revised plan for the rooftop. He's not saying he'll support it when it comes back but it's an interesting idea.

Berry concurs with Lynch. He would like to see a different configuration as far as something that sits inside the 25 foot setback.

Member Reis moved to deny approval of the application of Case No. 08-3-Sa and 17-13-V. He is very bothered by building all the way down to the water line. He's aware of the controversy over the concept of OHWL. It moves back and forth, but building all the way down to the OHWL is something he can't see. Member Baltzer seconded the motion. Lynch suggested adding an amendment about waiving all or some of the six month waiting period to reapply. Reis accepted the amendment and the motion passed by a vote of 5-0.

B. Case No. 76-15-Sa and 17-16-V: A request by **Polar Mazda** for a Conditional Use Permit Amendment, per Code Section 1303.140, to remove the existing sales building and a one sign variance, per Code Section 1202.040, Subd. 2.B, to allow a second free-standing sign that is 79 sq. ft. in size and 28' tall for the property located at 4095 Highway 61. **TO BE CONTINUED TO AUGUST AT APPLICANT'S REQUEST.**

C. Case No. 17-17-V: A request by **Joel Moline** for three variances to allow a 1,200 square foot expansion of the existing 1,064 square foot detached garage: a 1,264 square foot variance from the 1,000 square foot limit for a primary accessory structure; a 1,014 square foot variance from the 1,250 square foot limit for all accessory structures combined; both per Code Section 1302.030, Subd.4.; and a 25 foot variance from the 40 foot setback from the road-side property line, per Code Section 1303.030, Subd.c.1 for the property located at 2521 Manitou Island.

Showalter discussed the case. Staff recommends approval.

Lynch asked if they were to someday tear the garage down in the future, the variance would still be around, correct? Showalter stated that the variance goes with that garage. Kane stated that they can put a condition in that says it needs to remain underground.

Berry opened up the public hearing.

Dick Gunderson with Gunderson Construction came up to speak. He's present to answer any questions they might have. Gunderson stated that due to the open floorplan of the house, the applicant needs storage.

Member Lynch moved to recommend approval of Case No. 17-17-V. Member Reis seconded the motion with the amendment stating that the garage must remain underground, and it passed by a vote of 5-0.

5. DISCUSSION ITEMS:

A. City Council Meeting Minutes of July 11, 2017.

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B. Park Advisory Commission Meeting Minutes – June 15, 2017.

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6. ADJOURNMENT:

Member Baltzer moved to adjourn, seconded by Member Lynch. The motion passed unanimously (5-0), and the July 31, 2017 Planning Commission meeting was adjourned at 8:19 p.m.

DRAFT

Water Efficiency Rebate Program Results

FYI

	WaterSense Certified Toilets	Energy Star Certified Clothes Washers	WaterSense Irrigation Controllers	
First Quarter 2016	44	7	1	
Second Quarter 2016	86	15	3	
Third Quarter 2016	61	12	2	
Fourth Quarter 2016	76	13	0	
First Quarter 2017	3	2	0	
Second Quarter 2017	12	71	0	
Total YTD	282	120	6	
Estimated Gallons Saved Per Item	19554	3000	8,800	
Total Est. Gallons Saved Per Year	5514228	360000	52800	5,927,028

Total Grant Funds Received	\$65,000.00
Rebated First Quarter 2016	\$11,141.15
Rebated Second Quarter 2016	\$14,077.25
Rebated Third Quarter 2016	\$10,370.73
Rebated Fourth Quarter 2016	\$12,951.23
Rebated First Quarter 2017	\$584.64
Rebated Second Quarter 2017	\$14,606.03
Total of all rebates to-date	\$63,731.03
Unspent Grant Funds	\$1,268.97