

**MOUND CITY COUNCIL MINUTES  
FEBRUARY 12, 2013**

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, February 12, 2013, at 7:00 p.m. in the council chambers of city hall.

Members present: Mayor Mark Hanus; Councilmembers Kelli Gillispie, Heidi Gesch, and Ray Salazar

Members absent: Vacant Seat (Dave Osmeck)

Others present: City Manager Kandis Hanson, Finance Director/Clerk/Treasurer Catherine Pausche, City Attorney Melissa Manderschied, Community Development Director Sarah Smith, Fire Chief Greg Pederson, Mark Wegscheid, Blaze Fugina, Stephanie Bolles, Matt Bolles, T.J. Brink, Sandy Wing, Bob Boese, Kari Johnson, Stacy Burns, Heidi Wentzel, Bruce Sohns, John Morast, John Davis, Heidi Davis.

*Consent agenda: All items listed under the Consent Agenda are considered to be routine in nature by the Council. There will be no separate discussion on these items unless a Councilmember or citizen so requests, in which event it will be removed from the Consent Agenda and considered in normal sequence.*

**1. Open meeting**

Mayor Hanus called the meeting to order at 7:00 p.m.

**2. Pledge of Allegiance**

**3. Approve agenda**

MOTION by Salazar, seconded by Gesch to approve the agenda. All voted in favor. Motion carried.

**4. Action on Resolution to Appoint Mark Wegscheid as Councilmember**

MOTION by Gesch, seconded by Salazar to adopt the following resolution. All voted in favor. Motion carried.

**RESOLUTION NO. 13-15: RESOLUTION TO APPOINT MARK WEGSCHEID AS COUNCILMEMBER TO FILL VACANT SEAT.**

**5. Swearing-in of Councilmember Wegscheid**

Kandis Hanson swore in Councilmember Mark Wegscheid.

**6. Consent agenda**

MOTION by Gesch, seconded by Salazar to approve the consent agenda. All voted in favor. Motion carried.

A. Approve payment of claims in the amount of \$307,110.14.

B. Approve minutes: January 22, 2013 regular meeting, January 29, 2013 special meeting, and February 5, 2013 special meeting.

**C. RESOLUTION NO. 13-16: RESOLUTION RECOMMENDING CONTINUATION OF CDBG FUNDING OF WESTONKA COMMUNITY ACTION NETWORK (WeCAN)**

**D. RESOLUTION NO. 13-17: RESOLUTION AUTHORIZING GRANT AGREEMENT – CONSTRUCTION GRANT WITH THE METROPOLITAN COUNCIL, INFLOW/INFILTRATION GRANT PROGRAM, FOR MOUND SANITARY SEWER REHABILITATION PROJECT**

E. Approve Pay Request No. 8 from GMH Asphalt, Corporation, in the amount of \$94,453.71 for work completed on the 2012 Street, Utility, Lift Station and Retaining Wall Improvement Project; City Project Nos. PW-12-01, PW-12-03 and PW-12-04.

**F. RESOLUTION NO. 13-18: RESOLUTION APPOINTING CITY COUNCIL MEMBER MARK WEGSHEID AS REPRESENTATIVE OF THE CITY COUNCIL TO THE PLANNING COMMISSION FOR 2013**

**7. Comments and suggestions from citizens present on any item not on the agenda.**

**8A. Public Hearing - Review of Conditional Use Permit Amendment for Sojourn Adult Day Services at 5200 Maywood Road**

Community Development Director Smith spoke on behalf of applicant, Tom Penn of Sojourn Adult Daycare Services, LLC, who is requesting to increase number of clients at facility from 40 to 48. Original CUP approved in 2010, subject to conditions and amended in 2011, to increase the number of clients. The Planning Commission reviewed the application on January 15, 2013, and it was recommended for approval subject to conditions. There is an existing parking agreement with St. John's Lutheran Church for up to 15 spaces, which addresses the parking deficiency. City Attorney requests that approval be subject to an update of this agreement.

Mayor Hanus asked if real demand is reflective of what the code requires. Smith said demand was evaluated in 2010 and thought it was close, but it appears more on-street parking is taking place.

Mayor Hanus opened the public hearing at 7:14. John Davis, 2379 Fairview Lane, property backs up to Hiddenvale Lane. On-street parking prevents access to his lot, although there is no driveway to indicate need.

Kari Johnson, an employee representing Sojourn, said Sojourn wishes to be a good neighbor but do not control the other tenants. After further discussion, Mayor requested that the landlord come and obtain an updated shared parking agreement, referenced in the CUP, between the other parties to ensure employees park on the premises and giving the City a vehicle for enforcement.

Mayor Hanus closed the hearing at 7:55.

MOTION by Salazar, seconded by Gillespie, to table the action until the applicant, landlord, and upper tenants execute an agreement to have employees park in the on-site parking or at St. John's Lutheran Church parking lot and not on the street. Motion was withdrawn to allow for further discussion.

Gesch asked if parking requirements based on use will be reassessed. Smith said she will revisit to determine if there has been increased use. Hanson stated the goal is to reduce parking impacts on neighborhood streets.

MOTION by Hanus, seconded by Salazar, to table action and remand issue back to staff until applicant can produce an agreement between all tenants that requires all employees to park

within the confines of the property as stated and encourages clients to do so as well, in addition to updating the shared parking agreement with St. John's Lutheran Church to reflect amendments to the CUP and other tenants in the building. All voted in favor. Motion carried.

**8B. Public Hearing - Review of Conditional Use Permit to allow Jubilee Foods to have seasonal, outdoor accessory retail uses at 2131 Commerce Boulevard in the Mound Marketplace Shopping Center, an existing planned unit development**

Smith introduced a request for a CUP and an amendment to the Mound Marketplace Planned Development Area (PDA) on behalf of Mound Marketplace, Jubilee Foods and John Royer, Jr. to allow for outdoor seasonal sales in the parking areas of the site. Four seasonal sales will take place with the largest being the spring when a greenhouse will be placed on the site. The parking area is a shared parking area with the Pond Arena. Emergency vehicle area has been established although one of the access points from Avalon will be blocked temporarily during the spring sale. Planning Commission reviewed on January 15, 2013 and recommended approval subject to conditions. Staff recommends approval but suggests higher standard for fencing materials.

Mayor requested the shared parking agreement be summarized.

Mayor Hanus opened the public hearing at 8:25. Sandy Wing, Early Childhood Program Coordinator, 6348 Walnut Road, said that the Kid Stuff Sale takes place in the Pond Arena in the spring which is going on its 18<sup>th</sup> year and brings 200+ vehicles. Wing requests that congestion be considered/evaluated on April 19<sup>th</sup> and 20<sup>th</sup> during the event. Stacy Burns, 2121 Commerce/3100 Ridgewood Road, is President of the Westonka Sports Association (owner of the Pond Arena), stated the board supports the proposal as presented to them.

Bob Boese of Jubilee Foods spoke of actions to mitigate parking and safety issues during the Kid Stuff Sale. Police Reserves are used to help manage parking. Volunteers and/or employees will be requested to park elsewhere.

Mayor asked if parking demands have been assessed with change in use and addition of the animal hospital and outdoor seasonal sales. Smith stated original analysis considered all potential uses.

Hanson said staff is researching if underutilized park land adjacent to Jubilee could be sold to Mound Marketplace to allow space and a permanent structure for the outdoor seasonal sales. Hanson stated the approvals would be temporary to allow for discussions on possible sale of land. Hanus asked what makes resolution "temporary." Provision 2a states City reserves right for future evaluation.

Smith stated Staff recommended CUP instead of administrative approval because the timeline is extensive, but the Code does not provide for set time-lines. CUPs are perpetual until amended. Mayor would like City's right to reevaluate be clearly stated. Hanus also requests specific, directional signage.

Hanus proposed tabling action to come up with a vehicle that allows the temporary use. If it is a CUP, City must have more authority for enforcement. Hanson suggested something similar to Farmers' Market. Boese stated merchandise has been ordered and investment has been made because they assumed at least temporary approval will be given.

Mayor Hanus closed the hearing at 9:00. The meeting was recessed to change recording media.

Hanus stated language in City Code regarding CUPs contains global language that an annual public hearing can be held but the Mayor is unclear what action can be taken and enforced by the City. Hanus is not clear that the CUP can be revoked. Based on the fact that Jubilee has been good to work with, and there is an option for an annual review, Hanus stated he is comfortable enough to move forward.

MOTION by Hanus, seconded by Gillispie, to approve the following resolution, including the revised handout CUP with the addition of the following language: (new) *2m. Clear directional signage in both directions is required at all times while any access road is blocked in order to indicate where to access the shopping center and Pond Arena.* All other numbers below the new 2m are to be renumbered accordingly. All voted in favor. Motion carried.

**RESOLUTION NO. 13-36: RESOLUTION GRANTING APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW JUBILEE FOODS TO HAVE SEASONAL, OUTDOOR ACCESSORY RETAIL USE AT 2131 COMMERCE BOULEVARD IN MOUND MARKETPLACE SHOPPING CENTER, AN EXISTING PLANNED UNIT DEVELOPMENT**

**9. Stephanie Bolles and TJ Brink, representing proposed Dakota Junction restaurant.**

Stephanie Bolles, 2346 Robin Lane, summarized plans for the small restaurant to cater to residents and trail users year round by providing locally grown meats and produce. In process of obtaining permits, it was determined two bathrooms are necessary as well as larger kitchen facilities than originally planned. T.J. Brink, an investor in the project, requested the City Council reconsider the number of seats necessary for a liquor license. Research showed surrounding communities are at 30 and Mound is at 50. Brink said there is no other alternative to increase capacity since outdoor patio was enclosed.

Mayor Hanus stated he is willing to go to 40 seats and further discussion ensued.

MOTION by Gesch, seconded by Salazar, to direct Staff to prepare an amendment to the section(s) of the City Code that defines a restaurant with a minimum of 40 seats.

**10. Greg Pederson, Fire Chief, with Agreement to Provide Auto Aid Services to the City of St. Bonifacius.**

Chief Pederson summarized the issue for all Fire Departments with the declining number of volunteer fire fighters and stated St. Boni Fire was struggling with daytime coverage in particular. The agreement will provide for Mound Fire to provide auto aid on 6 event types from Monday through Friday, 7am – 5pm. Currently, Mound Fire provides mutual aid that causes a 5 to 8 minute delay in the call-out. This agreement will improve performance and guarantee a minimum of one engine company in any event.

Mayor Hanus asked if this means Mound would receive any additional 2% money from the State of Minnesota and Pederson indicated no.

MOTION by Hanus, Seconded by Gesch/Salazar to approve the Agreement to Provide Auto Aid Services to the City of St. Bonifacius. All voted in favor. Motion carried.

**11. Action on a resolution to authorize the City Manager to enter into a contract with OPUS21 to provide utility billing services**

Pausche summarized efforts to reduce operating expenditures in the past and highlighted the benefits of contracting for utility billing services with OPUS21. Pausche stated OPUS21 was the only provider to host the software and data which will allow for on-line access by City employees and residents and reduce demands on City network. Other vendors focus on only the bill payment and presentment portion of the process. Pausche highlighted the savings that results from not having to fill a budgeted clerical position in the Finance Department.

MOTION by Salazar, seconded by Gillispie, to adopt the following resolution, as amended. All voted in favor. Motion carried.

**RESOLUTION NO. 13-19: RESOLUTION TO AUTHORIZE CITY MANAGER TO ENTER INTO A CONTRACT WITH OPUS 21 TO PROVIDE UTILITY BILLING SERVICES**

**12. Request by Lake Minnetonka Conservation District for response on Bow Fishing regulations on Lake Minnetonka**

Mayor Hanus stated LMCD looking for a collective opinion from all area cities on regulating bow fishing on Lake Minnetonka. There has been a large variation in opinions and City Codes. The LMCD requested the response to three questions: (1) The City Ordinance does ban weapons, specifically bows and arrows within City limits (2) The Council consensus was that state law is sufficient (3) The Council requests that the LMCD create a map that designates those areas of Lake Minnetonka that meet the requirements of state law.

Hanus state local government can make things more restrictive, not less restrictive. The problem is do city limits extend into the water and that is difficult to manage. That is why the LMCD wants one policy. The water is the Hennepin County Sherriff's jurisdiction and the City is not in a position to enforce ordinances.

**13. Information/Miscellaneous**

A. Comments/reports from Councilmembers/City Manager

Hanson announced the Customer Appreciation Wine Sale taking place at Harbor Wine and Spirits now through March 2<sup>nd</sup>, 2013. Salazar announced a second Community Drug Forum taking place at the Gillespie Center on February 21, 2013 from 6:30 to 8:00pm.

B. Minutes:

C. Reports: Harbor Wine & Spirits – Jan 2013

D. Correspondence:

**8. Adjourn**

MOTION by Gesch, seconded by Gillispie to adjourn at 10:54 p.m. All voted in favor. Motion carried.

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Mayor Mark Hanus

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Attest: Catherine Pausche, Clerk

