

MOUND CITY COUNCIL MINUTES
April 23, 2013

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, April 23, 2013, at 7:00 p.m. in the council chambers of city hall.

Members present: Mayor Mark Hanus; Council members Mark Wegscheid, Heidi Gesch, Kelli Gillispie and Ray Salazar

Members absent: None.

Others present: City Manager Kandis Hanson, Fin Dir/Clerk/Treasurer Catherine Pausche, CDD Sarah Smith, City Attorney Melissa Manderschied, Blaze Fugina, Tom Rockvam, Mary Opheim, Vernon Brandenburg, Jay Green, Kelly Michels, Daniel Sandan, Mark Saliterman, Ken Pittel, Tom Reese, Terry Knight, Jean Slagel, Kathy Alexander, Pamela Myers, Rita Trapp

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

Kandis Hanson requested the addition of item 5A. Action on a Resolution to approve a Lease Agreement between the City of Mound and the Westonka Historical Society.

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

4. Consent agenda

MOTION by Salazar, seconded by Gesch to approve the consent agenda. Upon role call vote, all voted in favor. Motion carried.

- A. Approve payment of claims in the amount of \$162,496.64.
- B. Approve minutes of the April 9, 2013 regular meeting.
- C. **ORDINANCE NO. 05-2013: AN ORDINANCE AMENDING CHAPTER 78 OF THE MOUND CITY CODE AS IT RELATES TO WATERWAYS**
- D. **RESOLUTION NO. 13-53: RESOLUTION APPROVING VARIANCE FOR PROPERTY AT XXXX WINDSOR ROAD – PID NO. 25-117-24-12-0206**

E. Approve permits for Mound Fire relief Association Annual Fish Fry:

1. Temporary Sign Permit
2. Public Dance/Live Music Permit
3. 1-4 Day Temporary On-Sale Liquor License
4. Liquor Liability Coverage

5. Comments and suggestions from citizens present on any item not on the agenda. None were offered.

5A. (added) Action on a Resolution to approve a Lease Agreement between the City of Mound and the Westonka Historical Society.

Pamela Myers, President, Westonka Historical Society, gave an update on fundraising efforts, meetings with other area Mayors, and some of the initiatives the Historical Society is working on. A video on the historic street car boats was shown and Ms. Myers stated various videos have been produced and will be available through the WHS website using You Tube. Myers stated that the Historical Society Board voted unanimously to approve the lease agreement. Hanson stated her support for the agreement and is pleased they have found a permanent home.

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

RESOLUTION NO. 13-48: RESOLUTION TO APPROVE A LEASE AGREEMENT BETWEEN THE CITY OF MOUND AND THE WESTONKA HISTORICAL SOCIETY

6A. 1 Public Hearings: The Landings on Lost Lake Applications/Requests from Lost Lake Homes and Marina, LLC Preliminary Plat (PC Case No. 13-04)/Conditional Use Permit (PC Case No. 13-06)/Review of Variance (PC Case No. 13-03)

Trapp gave background on the project that includes the replat of the 26 remaining undeveloped lots in the Lost Lake 2nd Addition with an alternate 16 lot configuration with a two story design. The original plat was approved in 2005 and was amended in 2006. Trapp stated the proper disclosures and notifications were made, including meetings between the Homeowners' Association (HOA) and the developer and the utility companies. Trapp noted the City owns the wetland buffer and is responsible for the maintenance. Trapp noted concerns that were brought up in the discussions and what was done by the developer to mitigate those concerns. Trapp stated there were two (2) variances previously approved and that all of the changes requested by the developer are improvements to those original variances. Trapp stated both the Planning Commission and Staff recommend approval. Trapp stated MCWD will uphold previous permits that were approved by the City and that the old rules will apply. Smith stated the building permit may trigger an erosion control permit needed by the MCWD, which is usual and customary.

Mayor Hanus asked if the City was being asked to vacate easements that were in favor of the City. Trapp stated the Homeowners' Associations will combine when the

development is complete. Hanus clarified the utilities are all private and the HOA will be responsible for maintenance. Trapp clarified the developer would be responsible for any relocation during construction. Hanus questioned implications for Agenda Item 3d. Subdivision Agreement. Smith provided background on the issues. Manderschied stated the Subdivision Agreement was still under discussion, specifically Paragraph 11b regarding which parts of the old Subdivision Agreement should carry forward, so it is not ready for action by the Council, other than providing guidance as to the waiving of the fees. Kandis Hanson stated a special meeting for April 30, 2013 could be posted to allow staff more time to work out the issues with the developer.

Mayor Hanus opened the public hearing at 7:53 p.m.

Mark Saliterman, Developer, stated that he has had several meetings with the Homeowners' Association and they have reached agreement on many things. He agreed to the colors they requested, building two (2) stories vs. three (3), and changing the garage doors. The HOA liked the fact the new units will have more garage space/parking available. Saliterman also met with the commercial property owner to discuss the 10 stalls that are predominately being used by the commercial tenant but the HOA believes were meant for the townhome owners. Saliterman has agreed to change his number of boats from the 26 lots to 16 upon approval by the Council. He discussed staging for construction. He stated the preliminary numbers suggest this will be a \$5.5M project. He stated he was under the understanding the same fees would be waived that were waived for the former developer.

Salazar asked for clarification on the pedestrian access issue. Saliterman stated HOA owns the out lot that the public is currently cutting through to get to Caribou and/or load and unload their car when they have a slip on Lost Lake. Because it is private property, they do have a right to put a gate up but no decisions have been made. Salazar asked for the price points to be clarified. Saliterman said he estimates 11 units at \$450K and 7 at \$250K. The market has improved, but construction costs have increased as well.

Mayor Hanus asked what easement is being vacated. Discussion ensued and the Mayor was comfortable with the clarification. Salazar stated he did not like the idea of a gate. Saliterman said he is not using his votes as he is not on the HOA board and he is just trying to facilitate a resolution.

Gesch asked about the timing of construction. Saliterman stated units 1 – 4 will be built first and then the rest evaluated. He is confident in the product. He stated he has met with four prospective buyers.

Gillispie asked the average price point of the first four homes. Saliterman stated 2 – 4 is about \$450K, and unit 1 which is closest to the road, will go for about \$280K. Gillispie questioned the price points compared to the recent sales of the existing 11 units. Saliterman clarified the differences to support his assumptions. Gillispie questioned construction traffic in such a busy area. Sarah Smith stated it is standard construction hours, loads, etc. and will be managed similar to other projects and the first phase.

Saliterman stated he agreed to pay for the second lift on the road even though he is not obligated.

Mark Wegscheid stated that during Planning Commission discussions, the homeowners did not express concerns about the gate, but more concern was voiced regarding the second lift and potential damage to the existing roads with second lifts already. Discussion ensued and Melissa Manderschied pointed to language that addresses the issue. Manderschied stated the language can be clarified as part of the finalization of the Subdivision Agreement.

Mayor Hanus closed the public hearing at 8:23 p.m.

6A. 2 Public Hearing: Application to vacate drainage and utility easements (PC Case No. 13-08)

Mayor Hanus opened the public hearing at 8:23 p.m. No one came forward so Mayor Hanus closed the public hearing at 8:23 p.m.

Mayor Hanus suggested item 6A. 3 d. be discussed last.

6A. 3 Consideration of Final Plat-Major Subdivision (PC Case No. 13-12)

- a. MOTION by Hanus, seconded by Gesch, to approve the following resolution. All voted in favor. Motion carried.

RESOLUTION NO. 13-49: RESOLUTION GRANTING APPROVAL OF PRELIMINARY PLAT - MAJOR SUBDIVISION FOR THE LANDINGS ON LOST LAKE.

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

RESOLUTION NO. 13-50: RESOLUTION GRANTING APPROVAL OF FINAL PLAT - MAJOR SUBDIVISION FOR THE LANDINGS ON LOST LAKE.

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

RESOLUTION NO. 13-51: RESOLUTION GRANTING APPROVAL OF CONDITIONAL USE PERMIT AND VARIANCES FOR A PLANNED UNIT DEVELOPMENT FOR THE LANDINGS ON LOST LAKE.

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

RESOLUTION NO. 13-52: RESOLUTION VACATING DRAINAGE AND UTILITY EASEMENTS IN THE VILLAS ON LOST LAKE 2ND ADDITION.

- d. (moved). Mayor Hanus stated the changes that are to be discussed include:
1. Decision to waive fees. Salazar stated he saw no reason to waive the fees as it is a cost of doing business. Gesch asked if the work was already done. Hanus said yes but the fees apply to other things as well. Smith stated trunk charges go toward the overall maintenance of the City's infrastructure. Smith stated inducements have incurred in other projects. Hanus stated he wanted to see the project completed and would be willing to waive the fees again. Gillispie asked if all fees or just a portion were waived with the former developer. Manderschied stated the trunk area sewer charge was not waived. Hanus asked staff to provide options with fees waived using the prior language from 2005 and not waived. Manderschied cautioned about not having too many "moving parts" in order to ensure an agreement can be reached.
 2. Repair of damage to existing roads. Mayor Hanus asked Staff to develop the appropriate language and bring it back.

MOTION by Hanus, seconded by Gesch, to direct Staff to bring the Subdivision Agreement back with the option to waive the fees that were waived in 2005 and addressing how damage to existing private roads would be repaired. All voted in favor. Motion carried.

MOTION by Hanus, seconded by Gesch, to set a special City Council meeting on Tuesday, April 30, 2013 at 8:30pm for the purposes of taking action on the Subdivision Agreement for The Landings on Lost Lake. All voted in favor. Motion carried.

6B. 1. Public Hearing: Consider Conditional Use Permit from Bay Rentals, Inc. to allow personal watercraft and other non-motorized watercraft rental use at 2630 Commerce Boulevard

Smith introduced the request by applicant Ken Pittel. Smith stated the Code has a Marine and Boat Sales Land Use and it needs to be decided if this type of use is same and similar. Property is zoned B1. Council will need to make a determination that the use is consistent with the zoning and whether or not to approve a Conditional Use Permit. Smith stated the current use is a bait shop. The proposed use is service/retail utilizing the outdoor storage space for storing the watercraft trailers. Smith summarized the plans for the site layout. Smith said the business will offer customers the option to tow the vehicles elsewhere, or will launch the watercraft for them. LMCD and Hennepin County Sheriff Water Patrol govern the use of watercraft on Lake Minnetonka. Smith stated the Planning Commission discussed parking and planned hours of operation. Smith feels parking plan is adequate based on the seasonal nature. Smith stated the

Surf Side launch is public and has been used by other commercial entities, including Mr. Pittel. Smith stated the Fire Marshall has reviewed the site plan and is comfortable with it. Smith recommends adding the condition for required parking lot improvements, including drainage and landscaping. Smith suggests Council discuss off-season storage of watercraft. Salazar questioned why the applicant was given more time to implement the parking lot improvements. Smith stated a similar provision existed for Mahogany Bay and that weather can be a factor. Smith did not want to come back for an amendment. Salazar asked if on-site off-season storage would be necessary. Smith stated applicant agreed to shrink wrap units and have them neatly organized. Hanson stated it is a form of marketing. Hanus clarified that if the parking lot improvements were not done, the CUP could be revoked. Gesch questioned why the City would dictate the number of employee parking spaces. Gesch feels the business should manage the overall number in the way they see fit. Wegscheid said enforcement would be a challenge anyway. Hanson requested the resolution wording be broader to allow various kinds of rentals.

Mayor Hanus opened the public hearing at 9:07 p.m.

Terry Knight, 2670 Commerce Boulevard, Secretary of Chapman Place Condominiums and represents the HOA. Mr. Knight asked how many personal water craft (PWC) will be allowed in his fleet and expressed concerns about parking issues. He also expressed concerns with noise produced by PWC and the fact that renters tend not to leave Cooks Bay and often violate the 150 feet from shore rule. Cook's Bay launch is very crowded with many boats waiting for trailers. Mr. Knight said that Bay Rentals, Inc. is not currently registered with the Secretary of State and questions whether the proper insurance and legal requirements have been met. He asked if Mound regulates this kind of business. Mr. Knight questioned hours of operation and whether there will be compliance.

Jane Slagel, 2670 Commerce Boulevard, Treasurer of HOA Chapman Place, is concerned about aesthetics. Chapman Place invested heavily in the exterior and questions if there is a better location for this type of business. She also expressed concerns with noise, traffic, parking and hours of operation.

Kelly Michels, owner of 5661, 5665, and 5668 Bartlett Boulevard, which is east of the property under review, expressed concern with noise, parking and overuse of the park/Cook's Bay.

Ken Pittel, owner of Bay Rentals, Inc, stated he has operated in this area for 17 years. He stated the water patrol likes how his customers are trained and that they comply with the 150' beyond buoys and start and end times. He stated they are highly efficient at launching water craft as compared to fishing boats. Mr. Pittel stated he has a fleet of 12 – 15 water craft. Mr. Pittel is not aware of the state corporate registration issue. He has paid his taxes and has a state and federal corporate I.D. number. Gillispie suggested he check with his accountant.

Mayor Hanus asked how many current and maximum water craft are on-site. Pittel plans on buying 12 new 4 stroke Yamahas this year. The diagram allows for 20, but that is not planned at this time. Hanus asked about insurance. Pittel stated they are inspected and stickered by Hennepin County Sherriff Water Patrol. Pittel carries the necessary insurance, including property and liability. Hanus stated the CUP addresses the business hours of operation, not what times the PWC can be on the lake. Hanus asked Pittel to describe how the operations will take place. Pittel stated most rentals are enhanced bookings, but hopes some walk-ins will occur. Trailers will return to the property after launch. A time is set for when the customer is to return and they are encouraged to stay out deep in the bay until the trailer is ready.

Gillispie asked if removal of the propane tank would create additional parking opportunities. Smith stated more so when the parking lot is redone. Salazar asked where Bay Rentals previously operated out of. Pittel answered various locations in Tonka Bay and at Minnetonka Boat Rental. Gesch asked Pittel to estimate the percent of last year's business that was launched at Surfside Park. Pittel stated approximately 70%.

Gillispie asked if Pittel was aware of the additional rules and regulations for having on-site oil changes and she encouraged Pittel to do the research.

Jay Green, 5966 Lynwood Boulevard and Mound LMCD Board Representative, mentioned the state has a lake service provider certification if the business operates on multiple lakes.

The Mayor closed the public hearing at 9:48 p.m.

Mayor Hanus requested all references to "personal water craft and kayaks" be changed to "personal water craft and non-motorized water craft."

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

RESOLUTION NO. 13-54: RESOLUTION GRANTING APPROVAL OF BOARD OF ADJUSTMENT AND APPEALS REQUEST FROM BAY RENTALS FOR PROPERTY AT 2630 COMMERCE BOULEVARD

Hanus requested item 1C be stricken in order not to encourage commercial use of public parking lot at Surf Side Park. Hanus requested the addition of language that requires water craft use must comply with state law. Hanus requested specific language that applicant shall clearly instruct customers on state laws and that no water craft can enter the swimming area marked by the buoys. Gesch asked that item 2D be stricken. Hanson asked if the stated hours of operation need to be clarified. Discussion ensued on the difference between business hours, defined when customers can come and go, and rental hours. Hanus recommended using "Water craft use must comply with State Law." Hanson

questioned whether the statement made in 1B is accurate. Smith stated a parking study had not been performed. Hanus stated item 2E allows the City to reevaluate the parking/CUP.

Manderschied summarized the changes as:

- 1) All references to “kayak rental” be replaced with “non-motorized water craft”
- 2) Deletion of 1C
- 3) Replace 2C “Hours shall be 9AM to one hour past sunset.” with “Water craft use must comply with State laws.”
- 4) Deletion of 2D
- 5) Add clause 2O. Applicant shall clearly instruct customers of the laws regarding personal water craft and non-motorized water craft use, including the prohibition on entering into restricted areas, specifically, but not limited to, the Surf Side swim area.

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

RESOLUTION NO. 13-55: RESOLUTION GRANTING CONDITIONAL USE PERMIT FOR PROPERTY AT 2630 COMMERCE BOULEVARD

7. Discussion/directive to prepare comments to Minnehaha Creek Watershed District on Addition of Section 6/10 – Aquatic Species (AIS)

Mayor Hanus opened discussion stating he was not in favor of MCWD being lead payer in AIS management, but they are it. Hanus said he hasn't been able to get through the entire 60 page report, but has no immediate concerns based on what he has read.

Salazar's main concern is on tax implications. Hanus stated it will be funded from “revenue enhancement” or diverting funds from other programs. Hanson invited Jay Green to speak.

Jay Green, 5966 Lynwood Boulevard, was a member of the AIS task force and is the Mound LMCD Representative. The study identified prevention, containment and management as the priorities. The study did not address funding as much as education and strategy. Hanus asked if Green was aware of any additional burden on local authorities. Green stated the MCWD is limited in authority and that the DNR has to approve everything. Green stated a self-certification course is going to be available that will allow boaters to bypass inspections.

Salazar asked about the volunteer inspection opportunities. Green stated DNR manages main accesses and there are paid inspectors, but that volunteers would help augment paid inspectors.

Manderschied pointed out comments are not due until June 3, 2013. The Mayor asked that staff bring back the issue to the next meeting on May 14, 2013, for further discussion.

8. Information/Miscellaneous

- A. Comments/reports from Council members/City Manager
Hanson announced Joyce Nelson, Utility Billing Clerk, has been with the City for 36 years and is retiring at the end of May. A reception is being held at City Hall on May 30, 2013 from 1:30 p.m. to 4:30 p.m., with a program at 2:30 p.m. The public is invited.
- B. Minutes:
- C. Reports: Finance Department – March 2013
- D. Correspondence: Letter from FEMA – March 22, 2013

9. Adjourn

MOTION by Salazar, seconded by Gillispie to adjourn at 10:30 p.m. All voted in favor. Motion carried.


Attest: Catherine Pausche, Clerk


Mayor Mark Hanus