

**MOUND CITY COUNCIL MINUTES**  
**May 13, 2014**

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, May 13, 2014, at 7:00 p.m. in the council chambers of the Centennial Building.

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, Community Development Director Sarah Smith, Attorney Melissa Manderschied, County Assessor Kari Kamrath, County Assessor Rob Winge, Consultant Rita Trapp, Seth Anderson, Rachel Christensen, Lily Hames, Stephani Boyum, Paul Boyum, Cliff Simon, Curt Nelson, Jim Reuper, Josh Leddy, Jessica Rashleger, Kent Friedrichsen, Matthew Van Nelson, Jordan Korczak, Jeff Lundgren

*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 7:01 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. Mayor Mark Hanus with "Mayor for the Day" Proclamations**

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

A. Proclamation naming Rachel Christensen as "Deputy Mayor for a Day" in the City of Mound, Minnesota.

B. Proclamation naming Seth Anderson as "Deputy Mayor for a Day" in the City of Mound, Minnesota.

C. Proclamation naming Lily Hames as "Deputy Mayor for a Day" in the City of Mound, Minnesota.

**5. Consent agenda**

MOTION by Salazar, seconded by Wegscheid, to approve the consent agenda as amended. Upon roll call vote, all voted in favor. Motion carried.

A. Approve payment of claims in the amount of \$271,194.76.

B. Approve minutes of the April 22, 2014 regular meeting.

- C. Approve Fire Inspection Permit for Our Lady of the Lake Catholic Church – “The Blast” on Saturday, May 17, 2014 with fees paid.
- D. Approve permit for Temporary On-Sale Liquor License for the Northwest Tonka Lions – WeCAN Fundraising Event on May 16, 2014 with fee paid.
- E. **RESOLUTION NO.14-33: RESOLUTION APPROVING VARIANCES FOR 1728 FINCH LANE, PID #13-117-24-13-0018.**
- F. **ORDINANCE NO. 05-2014: ORDINANCE AMENDING APPENDIX A OF THE MOUND CITY CODE AS IT RELATES TO ELECTRIC AND GAS FRANCHISE FEES.**
- G. **RESOLUTION NO. 14-34: RESOLUTION AUTHORIZING PUBLICATION OF AN ORDINANCE BY TITLE AND SUMMARY.**
- H. Cancel Special Meeting Workshop for the purpose of receiving a concept plan for assisted living facility by Trident Development scheduled for May 20, 2014 at 7:00 p.m.
- I. Set a Special Meeting Workshop for the purpose of receiving Developer Day Summary for June 17, 2014 at 6:30 p.m.

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

**7. Kari Kamrath and Robert Winge, County Assessors, with 2014 Hennepin County Assessment and Board of Appeal and Equalization Report from May 7, 2014.**

Kari Kamrath, Senior Appraiser for Mound stated the 2014 open book meeting was held on May 7<sup>th</sup> and 6 residents attended. Kamrath stated property sales for the period October 2012 through September 2013 were analyzed to come up with the payable 2015 values. Kamrath relayed the following increases by property type: residential 15.8% on average, with some neighborhoods as high as 20 – 30%, residential lakeshore 5.3%, commercial and industrial 0.7%, apartments 3%, condominiums 17.9%, townhomes 9.9%, duplexes 16.9%, and zero lot lines 10%. The overall gross value increase was 10.7%. To date, the assessor’s office has received 62 value notice calls and has completed 11 appointments.

Kamrath stated if the property tax increased more than 12% and \$100, it may qualify for a special property tax refund up to \$1,000. The general property tax refund is income based. Both forms can be found on the Minnesota Department of Revenue website and should be included in the income tax filing for 2015.

**8. Jim Reuper, Phelps Bay Captain for the Lake Minnetonka Association, requesting contributions for the treatment of Phelps Bay.**

Josh Leddy, project manager for the LMA, and Jim Reuper, Phelps Bay Captain, explained that the Phelps Bay treatment area will be expanded in 2014 to east Phelps Bay and they are requesting additional funding. Mayor Hanus stated that funding requests should be received in spring for the following budget year and that the City does not have excess funds. Leddy stated the LMA is requesting an additional \$3,000 for east Phelps Bay.

Leddy stated that a Lake Improvement District (LID) is in the process of being created for St. Alban’s Bay. A LID establishes a Board of Directors comprised of bay residents, and a majority

of the bay residents could determine what level of treatment/service they want and then the costs would be assessed to the properties on that bay. Discussion ensued and Leddy stated he would need to obtain more information on the subject from Rob Roy who is heading up that initiative.

**9. Rita Trapp, Consultant with Hoisington-Koegler, Inc., requesting discussion on Concept Plan/Sketch Review of proposed 3-lot major subdivision near the intersection of Fairfield Road, Meadow Lane, and Leach Lane. Applicant is Kent Friedrichsen.**

Rita Trapp stated the applicant has requested City Council review the sketch plan and that it is not required. This review does not require a public hearing, but Trapp noted neighbors are present in the audience and written comments received from them have been included for Council consideration. Trapp summarized the proposed subdivision and stated all lots meet the zoning requirements for R2, which is a minimum of 6,000 square feet. Trapp stated the Planning Commission did not identify any concerns in their review.

Mayor asked if cul-de-sac is standard size and Trapp stated that the engineer and fire chief felt it was sufficient but that she will need to look at the code. Salazar asked whether or not the detached deck is on an unimproved road. Trapp said there is a 2 foot setback required for a detached deck from the side. Trapp said Staff needs to research if a permit was pulled at the time of deck construction. Trapp said vacating a right of way is somewhat problematic.

Kent Friedrichsen, 5913 Fairfield Road, stated he is the applicant, resident, and a real estate broker. Friedrichsen responded to some of the concerns raised by the council and neighbors.

Hanus stated he would make some preliminary general comments. First, he feels the Lot 3 explanation seemed to make sense and second, he does not have any serious issues with the concept being proposed.

Salazar stated he did a site visit and found it odd new homes would be built behind existing homes. Hanus stated similar cul-de-sacs exist all over city. Friedrichsen stated that the new owner of 5921 Fairfield Road/Lot 4 was a first time homeowner and that Friedrichsen purposely moved the structure on lot 5 as far back as possible to minimize impacts. Friedrichsen went on to address other concerns noted by neighbors.

Gillispie asked what the proposed timeline was for completing all of the structures. Friedrichsen stated all would be completed as soon as possible. Friedrichsen commented on the sizes of the proposed houses and lot sizes and stated both are similar to houses and lots in the area. Friedrichsen stated the trees taken out were dead and that all utilities will be underground. Hanson stated it is a benefit that the structures will be further back on the lot to allow for parking since there is no street parking. The street extension will be 24 feet wide which is the same as the existing width of Fairfield Road. Friedrichsen stated that he may move into one of the new houses and that he has lived in Mound for 18 years.

The Mayor invited people in the audience forward if they would like to speak.

Jordan Korczak, 5921 Fairfield Road/Lot 4, stated that he did have a realtor when he purchased the home and that this proposal was not known to him at the time of purchase. Hanus stated that everybody's property rights have to be considered.

Matt Van Nelson, 2925 Meadow Lane, stated he owns the new house. Nelson stated he wanted to voice a concern about disruptions to the nice quiet community with three houses

being built at once and that the applicant may not be fairly addressing the comments from neighbors. Nelson stated construction and traffic is a concern and will reduce the safety and privacy aspects that are currently enjoyed.

Hanus stated that often comments received are not relevant to discussion and that it is rare that proposed changes are well received by area residents.

Jeff Lundgren, 5924 Idlewood, is behind Lot 5, and is not happy to lose privacy in the rear of his lot.

Friedrichsen stated that he has worked with planners with the goal of getting final plat approval at the same time as the preliminary plat to save money and be proactive. Friedrichsen stated the state requirement is 45 feet for the cul-de-sac. Smith stated she looked it up and that the Mound code is 50 feet. Hanus stated that since there is no parking on the street, he would be concerned that there would be adequate parking on the property.

Smith stated that this is being treated as a three-lot major subdivision. Smith stated usually 3 lots is a minor subdivision but this is a major subdivision because of the public utility work involved. According to code, a major subdivision requires approval of a preliminary and final plat. A Public Hearing will be held for the approval of the preliminary plat at the Planning Commission and City Council levels including the required notifications. The final plat approval is just at the Council level. Smith said a development agreement will be executed with the plans and specs subject to review by the City Engineer, Public Works, Fire Department, and the City Planner. Smith stated a letter of credit will be required for the public improvements. Friedrichsen stated that funding is not a concern.

**10. Catherine Pausche, Finance Director/Clerk/Treasurer, requesting discussion/action on Liquor License applications from Stephani Boyum and Paul Boyum for Cattails Kitchen N Cocktails.**

Pausche summarized the information contained in the public packet and stated that the applications and Orono police department background reports had been provided separately to the Council as decision makers. Pausche stated the State relies on the local authority to do the background check and to determine if issuing the liquor license is in the public interest. Pausche stated the Conditional Use Permit for the premises was included in the packet and that is where conditions are typically contained.

Mayor Hanus asked if additional conditions may be proposed. Manderschied stated that the Council can impose additional conditions. Hanus cautioned the Council when discussing the information in background information. Manderschied stated two laws apply, the data privacy act and open meeting law that does allow for discussing private data so long as it is relevant to the decision.

Gesch asked if the CUP conditions have been met. Smith stated those items will be required before the resolution is released for recording and that progress is being made.

Salazar asked the applicant how start-up costs would be covered. Hanus stated he, too, wondered about finances and then he came to the conclusion that he did not feel it was his place to require proof. Paul Boyum, applicant, stated he has made arrangements with the food vendors and the bank to cover start-up expenses. Salazar asked about hiring staff and Boyum stated some are in place. Salazar asked where the applicants are living Boyum stated Golden Valley.

Hanus proposed the following language be added as a clarification: “This license will be subject to revocation or non-renewal if the City Council determines that this liquor establishment is a nuisance or requires an abnormal or undue burden on law enforcement or the community.” Hanus said that although there are no automatic disqualifiers triggered per the Police Chief, he feels this additional language is still needed. Hanus asked how conditions on approval are incorporated into the license. Hanus relayed a potential scenario where this additional language might be needed.

Manderschied stated that City Code Section 6.53 provides a specific process for suspension or revocation of a license and that she has concerns about the use of “abnormal” and “undue burden” in the proposed language because it can be tricky to prosecute, whereas public nuisance is defined. Gesch worried that the proposed language is not measurable. Hanus asked what in addition to State Statute could be used as an enforcement tool. Manderschied referred to the Public Nuisance Ordinance and also referred to State Statute regarding over serving or providing service to minors. Hanus asked to address the undue burden on law enforcement if that were to occur. Gillispie asked about the license renewal language and if that would address it.

Manderschied stated State Statute and City Code states that the licensee is responsible for the conduct on the premises, specifically Section 6.52. Manderschied said she is not concerned about placing a condition, just the language that was proposed. Hanson stated that police reports and calls for service are considered during the renewal. Manderschied stated the City Council has broad discretion at issuance and during renewal and stated that a liquor license is a privilege and not a right. Manderschied stated that courts are likely to uphold any reasonable and non-arbitrary reason.

Hanus asked Manderschied to confirm that the public nuisance laws are applicable. Manderschied stated that they are applicable if the activity was related to liquor and occurred on the premises.

Hanus stated that although he is not sure what the exact plans are, it appears the applicant plans to try new things and he likes that.

Wegscheid stated that he drove by and did a walk through and that Mr. Boyum has done a fabulous job with the building. Wegscheid stated he is comfortable with the codes in place and supports approval of the license.

Salazar stated he has given this a lot of thought and has many questions. Salazar stated a liquor license is a great privilege, and even though he is pro business, he is concerned about public safety and welfare. Even though he has trepidations, he is feeling better after hearing the other Council Members. Salazar stated that he believes there is demand for this service and if it is properly maintained and delivered, it will be successful.

Hanus stated that he recently asked the Orono School Resource Officer about police calls/activity at The Narrows in Navarre and he was surprised to hear that there was very little. Salazar asked about DUIs and Hanus stated that this type of business comes with inherent risks and that he hopes that they control it well and avoid the need for a police presence. Discussion ensued about server training and Pausche stated that it is in the business plan and is typically required by the liquor liability insurance carrier. Hanson stated that the required 50/50 ratio for food and liquor receipts will help keep the balance.

MOTION by Gesch, seconded by Wegscheid, to approve an intoxicating on-sale liquor license and a Sunday liquor license for Stephani Boyum and Paul Boyum for Cattails Kitchen N Cocktails. All voted in favor. Motion carried.

**11. Catherine Pausch, Finance Director/Clerk/Treasurer, requesting action on a resolution approving a Premises Permit Application for Gambling at Cattails Kitchen N Cocktails, LLC.**

Pausche stated that there was gambling, including pull tabs and paddle wheel, at the former VFW and that the State of Minnesota requires a resolution by the Council to approve the permit.

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

**RESOLUTION NO. 14-35: RESOLUTION APPROVING PREMISES PERMIT APPLICATION FOR GAMBLING AT CATTAILS KITCHEN N COCKTAILS, LLC.**

**12. Kandis Hanson, City Manager, requesting discussion/action on an ordinance amending Chapter 50 of the Mound City Code as it relates to parks and recreation prohibiting private business on public lands or waters within the municipal boundaries of Mound.**

Hanson stated issues arose last summer and that the Orono Police Department has asked for more enforceable language in the City Code. Hanson stated this proposed language is to address conducting of business on public lands, including up to 600 feet into the water, and also prohibits businesses from citing the address of City property as the business address in advertising. Hanson stated the intent is to keep these places primarily for the public enjoyment, although Staff will be working on language that allows the permitting of certain types of businesses that are deemed to be in the public interest.

Gillispie asked how the farmers markets would be impacted and Hanson stated that the one that takes place on public land is permitted. Discussion ensued about how Staff will know when business is being conducted on public land and Hanson stated the City received many reports from the public last year as well as the police officers know to look for it.

At 9:00 pm, the meeting was recessed to change the recording medium. The meeting was resumed at 9:05 pm.

Wegscheid asked Hanson to describe the types of calls that were received and Hanson gave examples. Salazar said the Council needs to consider the liability issues on city property. Hanson stated that insurance is required as part of any permitting process. Gillispie asked about any signage issues and Hanson stated that it is primarily when they use their vehicles as advertising bulletin boards. Wegscheid asked what the repercussion is for violating the ordinance and Manderschied stated violators could be charged with a misdemeanor. The City, as owner, can authorize use through permits and/or rental agreements. Hanson gave the example of Tommy's Trolley in Excelsior. Discussion ensued about the use of "immediately" in the resolution with regards to the delivery of goods, products, and services and Manderschied stated she used it in order to address vendors who may be there with the City's authorization. Hanus stated when the Bay Rentals' CUP was approved last year the Council was specific that the rental needed to take place on their private property and that he would use public property only to launch the watercraft.

Salazar asked what would prevent someone from conducting a business out of their garage and Hanus stated that is allowed subject to the exterior storage unit, signs, and other language in the code that would apply.

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

**ORDINANCE NO. 06-2014-: ORDINANCE AMENDING CHAPTER 50 OF THE MOUND CITY CODE AS IT RELATES TO PARKS AND RECREATION PROHIBITING PRIVATE BUSINESS ON PUBLIC LANDS OR WATERS WITHIN THE MUNICIPAL BOUNDARIES OF MOUND.**

**13. Closed meeting for the purpose of performance evaluation of Kandis Hanson, City Manager. (Closed at City Manager's option.)**

At 9:25 p.m. Mayor Hanus announced that the Council would go into closed session for the purpose of performing the City Manager's performance evaluation. City Manager Hanson stated she wished to conduct her performance evaluation in a closed session.

MOTION by Hanus, seconded by Salazar, to close the session for the purpose of conducting the City Manager performance review. All voted in favor. Motion carried. Hanus read the applicable State Statute language that allows the Council to close the meeting.

Mayor Hanus reconvened the meeting at 11:28 pm. Mayor Hanus announced that the Council had completed the performance evaluation of the City Manager.

**14. Information/Miscellaneous**

- A. Comments/reports from Council members/City Manager:  
Gesch thanked the owners of Carbone's for following through on their promise to provide alternative transportation for their patrons. Hanson announced that on Saturday, May 17, the Farmer's Market will open, and the Meals for Wheels and Our Lady of the Lake Blast fundraisers will take place.
- B. Minutes: Planning Commission – March 4, 2014
- C. Reports: Mound Fire Department Fire Commission Meeting Agenda – May 7, 2014  
Strathmore's Who's Who Honors Kandis Hanson
- D. Correspondence: Letter from Hennepin County on Community Development Block Grant program – April 18, 2014  
Email from Chief Farniok on Successful Explorers Competition – May 1, 2014  
Letter from Westonka Historical Society requesting volunteers  
Letter from Mediacom on channel lineup – May 1, 2104  
Minnetriska/Mound Clean Up Day – May 10, 2014  
Hennepin County Hazardous Waste Collection Events

**15. Adjourn**

MOTION by Gesch, seconded by Salazar, to adjourn at 11:30 p.m. All voted in favor. Motion carried.

  
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Attest: Catherine Pausche, Clerk

  
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Mayor Mark Hanus