

MOUND CITY COUNCIL MINUTES
January 26, 2016

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, January 26, 2016, at 7:00 p.m. in the council chambers of the Centennial Building.

Members present: Mayor Mark Wegscheid, Council Members Heidi Gesch, Ray Salazar, Jennifer Peterson, and Kelli Gillispie

Members absent: none

Others present: City Manager and Public Works Director Eric Hoversten, Community Development Director Sarah Smith, Administrative Assistant Mary Mackres, City Attorney Melissa Manderschied, Field Officer Stewart Simon, Consultant Planner Rita Trapp, Assistant City Engineer Brian Simmons, Katie Morford, Shawn Sheridan, Kelly Sheridan, Brenda Jonckowski, Curtis Bree, Andy Weigman, Kris Klinkerfues, Karen & Luke Ledy, Scott Ramaclen, Theresa Gilbert, Tina Tiffany, Brian Kelly, Louis & Katie Herbes, Pat & Ted McGrath, Jim Larson, Ralph Kempf, Ron Mooaesa, Ken Mooaesa, Charles Upton, Bev Bemo, Julie Eastman, Ryan Rosemeyer, Joyce Coleman, Robert Berens, Lori Schneiderhan, Brett Herderdorf, Pat Eastman, Mike Kukas, Jennifer Bruce, Mark Overland, Becky Overland, Sherry Lundy, Lisa Everson, Patty McKay, Dan Halloff, Katrina Gallagher, Brandan Edgeworth, Dean Becharve, Maria Stefrens, Steve Schlachter, Bruce Martin, Charles Leueke, Lauri Huttner, Nichole Spiess, Susan Rieger, Gale Rieger, Mark & Debra Rudy, Bob Nygaard, Douglas Bartz, Jane Grass, Dave Stuess, Ian Maloney, Bin Sanow, Travis Nelson, Casey Schultz, Dan Jensen, Troy Koopman, Tom Lavoie, Bill King, Daniel Gorshe, Reba Murerlint, Mark North, Kristen Schaible

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 Council Member or citizen so requests, in which event it will be removed from the Consent Agenda and considered in normal sequence.

1. Open meeting

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

2. Pledge of Allegiance

3. Approve agenda

MOTION by Salazar, seconded by Peterson, to approve the agenda with replacement pages No. 178 and Nos. 181-182. with additional information for Item #7, Tuxedo Blvd. Street Improvement Project. All voted in favor. Motion carried.

4. Consent agenda

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

A. Approve payment of claims in the amount of \$300,688.85

B. RESOLUTION NO. 16-12: RESOLUTION RECOMMENDING CONTINUATION OF CDBG FUNDING OF WESTONKA COMMUNITY ACTION NETWORK (WeCAN)

- C. Approve Second Amendment to Lease Agreement between the Westonka Historical Society and the City of Mound
- D. RESOLUTION NO. 16-13: RESOLUTION APPROVING BUILDING IMPROVEMENTS TO LEVEL 4 OF THE CENTENNIAL BUILDING BY THE WESTONKA HISTORICAL SOCIETY**
- E. RESOLUTION NO. 16-14: RESOLUTION AUTHORIZING PROCUREMENT OF WEB-BASED AUTOMATED GIS ASSET AND WORK MANAGEMENT TOOLSET**
- F. Approve a 1-Day to 4-Day Temporary On-Sale Liquor License for Our Lady of the Lake Catholic School's March 5, 2016, Beer Tasting Event Fundraiser, with fee paid.

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

None

6. Action to approve minutes from January 12, 2016, regular meeting

MOTION by Salazar, seconded by Gesch, to approve minutes from Jan 12, 2016, regular meeting. The following voted in favor: Salazar, Gesch, Peterson, Wegscheid. The following voted against: none. The following abstained: Gillispie. Motion carried.

7. City Engineers requesting re-open of Nov 24, 2015, Public Improvement Hearing, 2016 Streets, Utility, and Retaining Wall Improvements, Tuxedo Blvd

Brian Simmons, Mound Assistant Engineer, made a presentation on the Tuxedo Blvd Street Improvement Plan with two points to revisit. Simmons is seeking council direction on material revisions and is looking for direction on establishing the number of ERUs for Lakewinds condominiums.

Simmons said the City is not installing water mains along the majority of Tuxedo Blvd. Staff is proposing to install a loop for an additional \$15k which will improve water quality in that area.

Simmons noted the intersection of Manchester & Tuxedo has an offset intersection, has an existing guardrail, and the sidewalk narrows and is somewhat unsafe. Simmons has looked at design options to solve some safety concerns and is proposing to even out the width of sidewalk. Simmons and city staff also analyzed replacing the retaining wall in the same area. Although Simmons says the retaining wall has approximately 15 - 25 years of life left, replacing the wall is \$10k cheaper than repairing it. Simmons and staff recommend adding \$70k to the project for the sidewalk and retaining wall changes, which are considered safety improvements.

Simmons stated that under MN statutes, the City must have a public hearing as part of process to inform the public of the assessments and that the City has always assessed on an equivalent residential unit (ERU) basis for their improvement projects. Simmons explained how ERU's are determined and said that instead of looking at front linear footage, the City applies a single unit to each individual single family home, with different formulas for commercial properties and high density housing. The combination method is used for commercial properties, which is 30% of front footage + 30% of area + 40% of total number

of units. Policy for multi-family residential units (high density) is .75 ERU per unit. There are clauses in the policy which guides the City in how to apply reasonability to this standard.

Simmons stated that starting with Indian Knoll Manor, which was the first high-density multi-family housing in a improvement project area, the City has been consistent in this practice; having established an alternative high-density residential methodology. Simmons noted that this method was most recently used with Seahorse Condos on the Three Points project. This alternative methodology takes the area of the lot in square feet and divides it by 10,000 feet (typical Mound buildable lot size) to come up with the number of ERUs.

Simmons noted that Lakewinds condos sit on 7.1 acres, which equals 309,000 feet, equaling 141 ERUs, which would not seem like a reasonable assessment for the Lakewinds owners.

Simmons stated that the previous version of the feasibility study proposed three ERUs for Lakewinds and that possible alternatives include either 10 ERUs or 15 ERUs using either the 3-sided corner lot or 2-sided corner lot based on the formula used for the Seahorse Condos.

Simmons presented updated numbers for the feasibility study, which include the additional \$15k in water main repairs and \$70k in retaining wall and sidewalk improvements. The new assessable amounts won't change significantly with the addition of the sidewalk & retaining wall improvements. The City will pay 1/3 of project costs. Simmons presented different options for various ERUs for Lakewinds. Simmons showed cost comparisons using the Seahorse assessment method.

Salazar wanted to know how Simmons came up with 10 or 15 ERUs for Lakewinds. Simmons explained that Lakewinds could be considered a 3-sided corner lot because it borders on Wilshire Blvd., an unimproved street partially occupied by Pelican Point Circle, and Tuxedo Blvd. Simmons stated corner lots in the past have been assessed 1/2 ERU for each street equaling a total of one ERU. Salazar stated that he considers the "best deal" is 10 ERU's for Lakewinds .

Mayor Wegscheid recapped Simmons' presentation, noting the assessed values went up due to the addition of the retaining wall and sidewalk improvements and noting that the City is trying to make the process fair and equitable for everyone. Wegscheid noted the topics of usage and frontage frequently come up, but that it is difficult to quantify usage and that Lakewinds mainly uses a County road which will not get assessed. The Mayor said the City is trying to assess in "the spirit of public roads" and trying to do it in the fairest way, which is why the Council approved the ERU method when the assessment policy was first developed. The Mayor said the Council has to look at the bigger picture while balancing costs to see what will work. Wegscheid stated it is not a perfect system, but the City needed something to use to establish fair assessments and that the past has to be considered in order to make a long-term, even decision regarding assessments.

Mayor Wegscheid opened the public hearing at 7:24 p.m.

Ralph Kempf, of 4379 Wilshire addressed the Council, stated he is on the Board of Directors of Lakewinds. Kempf thanked City Manager Hoversten for his accessibility as the public

tries to understand the ERU issue. Kempf challenged the costs for Lakewinds owners, noting that zero ERUs were assigned at first, then three ERUs were assigned at the Nov. 24 council meeting, and then John Beise, former council member, recommended 15.5 ERUs for Lakewinds. Kempf noted this 500% increase would raise Lakewinds' contribution for the project to \$102,300 and that Lakewinds needed more time to inform residents so that their concerns could be heard. Kempf explained what each ERU for Lakewinds would do. Kempf thinks the only beneficiary for this increase is the City as the Lakewinds property only has 179 feet fronting Tuxedo, which equates to 6% of total lineal footage of project. Kempf stated Seahorse costs and benefits are not the same as Lakewinds. Kempf provided excerpts from the League of MN Cities website regarding assessments. Kempf referenced the League's assessment tool kit which states there must be a benefit to the assessed property and noted that with no access to Tuxedo for Lakewinds then there is no market value benefit. Kempf stated he objects to this assessment process.

Jim Larson, 4371 Wilshire, B204, stated he is an owner, resident, and board member at Lakewinds. Larson presented a map of Tuxedo and entrances and exits to Lakewinds. Larson wasn't sure why he got a notice of potential assessment as Tuxedo means nothing to him. Larson showed different assessment methods. Larson believes the area assessment method is flawed and that he doesn't think Lakewinds is considered a 3-corner lot, noting that he has never been on Pelican Point Rd. Larson went over the special assessment toolkit from the League of MN Cities and noted concern that his property taxes will go up if his property value goes up. Larson challenged the assessment on behalf of Lakewinds and stated that he wants an option to appeal the Council's decision to the district court. Larson said he looked at other cities and how they assess properties and agrees there are some flaws in all systems.

Mayor Wegscheid addressed Mr. Kempf's statement that extra money goes into the city's coffers. The Mayor stated that cities don't have "coffers" and that all funds go back into projects in the City that benefit all of the community and the residents.

Steve Schlachter, 5418 Church, stated he is president of the Lakewinds association. Schlachter believes one of the justifications of getting an assessment for Tuxedo would be that they wouldn't get other assessments. Schlachter said although they won't get assessed for Wilshire which is a county road, the association has to maintain the driveways at Lakewinds and they will be assessed for that. Schlachter says Lakewinds would be assessed for about 25% of the Tuxedo project if assessed 10 ERUs and that there is no benefit for Lakewinds.

Kristen Schaible, 4387 Wilshire, #D111. Schaible says she never takes Tuxedo and that ninety-two percent of time people take a right out of the Lakewinds parking lot and not a left.

Brian Kelly, 4387 Wilshire, commented that if the City assesses people unfairly we may lose some Mound citizens.

Lori Schneiderhan owns four condos at Lakewinds. Schneiderhan said that it sounds like the City is trying to justify the Lakewinds assessment by considering Wilshire as a county road, adding that the original proposal of three ERUs seems reasonable.

Mayor Wegscheid stated that he wanted everyone to know that they have the right to appeal and that they don't need to stand up and say that.

Ted McGrath, 4047 Wilshire, #F211 stated that he realizes that city wants to keep things fair and be consistent with what has been done in the past, but that he believes the city needs to take extra care with this one.

Doug Bartz, 4307 Wilshire, #E301, stated he is a High School Math, Physics & Chemistry teacher. Bartz believes there is not a valid comparison on road improvement costs with Seahorse & Lakewinds condos as no Lakewinds resident needs to drive on Tuxedo to get to their condo. Bartz presented Spring Park's assessment process and stated he thinks too much money is potentially being assessed by Mound to the Lakewinds Condos.

Mayor Wegscheid commented that the discussion of usage is repetitive and that the program used isn't perfect and that there are many methods used. The Mayor encourages others to speak to something other than usage.

Vince Forystek, of 3131 Inverness, stated that he owns condos at Lakewinds and would like the City to scrap the assessment method being considered. Forystek noted all the people on Shady Island & Enchanted Island have to use Tuxedo to get to their homes and that Tuxedo Blvd. should be a county road.

Mayor Wegscheid stated that we all live in the community and the Council understands the usage argument.

Shawn Sheridan, of 4407 Wilshire, wants to know what the next steps are.

Bob Ahrens, 5855 Sarah Heights Drive in Rockford and Lakewinds condo owner, noted owners pay county taxes which pay for county roads and that he is okay with paying a fair share.

Bruce McComb, 2772 Becker in Independence, stated that he is the power of attorney for a resident at 4407 Wilshire and that he wants to know what city attorney says. City attorney Manderschied said it is appropriate to comment on where we are in the process; however, she can't comment on legal advice that she is giving to her client, the City.

Dennis Erickson, 4387 Wilshire #D310, stated that he moved to Mound in 1969 and noted that a lot has happened since then. Erickson recommended all paying into a fund at the same time that would fund road improvements.

Chuck Laveke, 4379 Wilshire, stated that he thinks that Lakewinds has been represented very well tonight and that Lakewinds pays \$275k in property taxes. Laveke said he thinks Lakewinds pays too much for water with the tiered system.

Ralph Kempf added that Lakewinds pays for hydrants being flushed on their property.

Mayor Wegscheid closed the public hearing at 8:41 p.m.

The Mayor commented that most of the conversation is about usage and that it is a tough process as someone will walk away shaking their head. The Mayor noted references to the League of MN Cities verbiage is in the City's policy and that the question of whether the

improvements increase the property value is a common one. The Mayor stated he would like to get input from the Council.

Gesch brought up that the Council requested to be better educated on the process at the initial hearing and that Staff was asked to bring back more analysis to Council. Gesch added that the Council is trying to be equitable.

Salazar stated that he concurs with Gesch and noted that the original three ERUs with a cap of \$6600 means the City would need to absorb about \$48k. Salazar said he initially thought 10 ERUs appropriate for Lakewinds but in looking at the frontage, now believes three ERU's are more appropriate and that no ERUs would not be appropriate. Salazar stated the project is of some benefit to Lakewinds owners and noted that single households on Tuxedo will pay about \$6600.

Gillispie stated that the improvement projects have been going on for 10+ years and that the Council has to be fair in regard to people from past projects. Gillispie said she is not in favor of zero ERUs and is in favor of something that is fair and reasonable. Gillispie asked about the City process for assessing for unimproved roads. Simmons stated that the City hasn't assessed for them in the past and Gillispie said she feels that this isn't something we should start now.

Peterson asked what Simmons thinks and Simmons said that the Council needs to think about what benefit improved roads will make.

Gesch said she did not want to make an uninformed decision when it was discussed at the initial hearing and that she needed more clarification to make a good decision. Gesch stated that she is okay with three ERUs.

Mayor Wegscheid agreed with three ERUs as well and stated that zero ERU's are not an option and would not be a responsible thing to do. Wegscheid said there has to be some contribution by Lakewinds and that he felt the Council can direct staff to prepare a resolution.

MOTION by Wegscheid, seconded by Salazar, to direct staff to prepare resolution ordering improvement and preparation of revised plans and incorporating the ERUs for Lakewinds to the quantity of three. All voted in favor. Motion carried.

Mayor Wegscheid thanked everyone for showing up and speaking up.

8. Public Hearing - Review of proposed amendments to City Code Chapter 129 (Zoning Ordinance) related to the expansion permit regulations

Rita Trapp, City Planning Consultant, presented zoning code amendments related to expansion permit regulations. Trapp stated in 2015 the City Planning Commission reviewed the City expansion permit process. Over the last five years the City has approved all 20 permit applications brought forward. Trapp questioned if some of these permits could be reviewed and approved administratively rather than going through the Planning Commission. Those type of expansion permits that could be reviewed administratively include a minor roof peak height increase, a basement excavation, an increase in an

existing upper floor which remains within the footprint of the lower floor and isn't larger than 500 square feet and one-story additions on a main floor which would be less than 250 square feet. Trapp stated an example of the latter could be a porch with minor modifications. Trapp explained that if a project doesn't fall within the parameters of the above four minor expansion areas, it would be considered a major expansion and will go through the Planning Commission and City Council approval process.

Gillispie asked for clarification on appealing decisions for minor expansion permits when they are denied. Trapp commented that the applicant would have the ability to appeal immediately if the minor expansion permit was denied. If it is denied again, the one-year waiting period would apply. If adjustments were made, the project could come back again for review.

Mayor Wegscheid opened the public hearing at 9:15 p.m. and upon receiving no comments from the public, closed the public hearing.

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

ORDINANCE NO. 01-2016: AN ORDINANCE AMENDING CHAPTER 129 OF THE MOUND CITY CODE AS IT RELATES TO EXPANSION PERMITS

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

RESOLUTION NO. 16-15: RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 01-2016 BY TITLE AND SUMMARY

9. Community Development Director Sarah Smith requesting discussion/action on conditional use permit violation(s) at 4831 Shoreline Drive (MainStreet USA) - item tabled at January 12, 2016, meeting

Before the discussion began Gillispie recused herself due to potential conflict of interest.

Smith summarized the issue and said that operations needed to be brought into compliance with the current Conditional Use Permit (CUP). Smith noted the City does have an application requesting an amendment to the CUP with an updated site plan and a request for minor vehicle repair activities. Smith noted the application requirements have been satisfied and that Staff has met twice with the property owners to discuss the CUP since the last Council meeting.

Smith stated there has been movement on the site relating to the number of vehicles on the lot, noting there were 37 vehicles observed on site last week and 29 vehicles as of Thursday afternoon. Field Officer Stewart Simon observed 28 vehicles on the property on January 24, 2016 and today there were 28 vehicles observed on the site plus five additional vehicles on the street. Smith stated the CUP allows for 20 vehicles on display for sale to be allowed on site plus customer and employee parking. Smith added there are activities taking place on property which may not be allowed by the CUP, including automotive repairs.

Mayor Wegscheid noted that the amount of vehicles on site still doesn't meet what is

required in the CUP.

Max Teplitski, owner of Main Street USA, addressed the Council. Teplitski stated that the current number of vehicles on site displayed for sale is 16 and that the other vehicles are in back for staging. Teplitski stated that when vehicles are brought in, they go through their checklist to make sure vehicles are ready for sale. Teplitski stated he has a plan to do site improvements in the spring or summer.

Mayor Wegscheid stated that this is not a new issue and that Mr. Teplitski came into compliance previously. The Mayor said Staff has been clear in explaining what 20 vehicles means, additional time was given, and that staff continues to observe an excessive number of vehicles on the lot. Mayor Wegscheid recommended suspension of the CUP until Feb. 10 and that if the owners are not in compliance by then, the suspension will continue.

Attorney Manderschied asked how the Council would like to proceed if property owner meets requirements prior to the next meeting. Mayor Wegscheid clarified that no action would be taken until next Council meeting.

Salazar stated that we are very pro business in our town but that he wants the property to be presentable and wants the CUP to be followed. Salazar asked if in-depth auto repairs are taking place on the property and added that this is above and beyond what is allowed in the CUP.

Teplitski said that the CUP states that he can have 20 vehicles on the lot and that he brings cars in and out of the lot all the time since it is just part of the business. Teplitski stated they are not doing custom work on cars on the lot.

Mayor Wegscheid noted that the current CUP conditions are not being met.

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

RESOLUTION NO. 16-16: RESOLUTION REVOKING THE CONDITIONAL USE PERMIT ALLOWING OPEN LOT VEHICLE SALES ON THE PROPERTY LOCATED AT 4831 SHORELINE DRIVE

10. Discussion/action on variance application for property at 1732 Canary Lane

Planning Case No. 15-23

Applicant: Steve Kleinman (on behalf of owner Troy Koopman)

Rita Trapp, City Planning Consultant, explained this variance request is for a rear yard setback for a new home. The application has been reviewed by the Planning Commission in November which recommended approval. Staff recommended denial of the variance as the project is a demolition and rebuild. Trapp said she is here to request direction from the Council and that due to the differing recommendations a resolution has not been prepared in advance.

Salazar stated he feels that the applicant has plenty of property to build on the site correctly without applying for a variance.

Peterson stated that there was an hour of discussion regarding this property at the Planning Commission meeting and that the recommendation of the Commission was based on the site keeping the setback at 10.6" which is under the 15' rear set back. Peterson stated the Planning Commission did note the project does not meet the practical difficulties test.

Salazar noted that there are no practical difficulties and there is plenty of land to not request a variance.

Gillispie says that there is always a debate on side/rear setbacks on lakeside homes.

Salazar says that the front of the house on the street-side should be considered the front of the house. The back of house must have the 15' setback as is required.

Peterson noted that the Commission declined a variance for a similar situation and the site never was redeveloped which wasn't a benefit to the community. The Commission is in favor of redevelopment.

Gillespie asked how the neighbors feel about the project. Trapp said the neighbors are in favor of the build.

Steve Kleineman, SKD Architects, stated he has been designing homes for 40 years and noted there is a steep embankment on lot and that there are a number of constraints on what you can do with the house due to the lot conditions.

Salazar asked why area towards the lake can't be filled in instead of asking for a variance to the back of house.

Gesch stated that she sees no practical difficulty and the steep slope on the lot doesn't qualify as a bluff noting there is plenty of room on the lot without asking for a variance.

Mayor Wegscheid mentioned that the Council has historically granted many variances and there are these rules for a reason. Wegscheid noted the need for consistency, even though each application is decided on a case-by-case basis.

Gesch reiterated the practical difficulty test isn't met at this location.

Gillispie asked why the hill on the site isn't a bluff? Smith stated the surveyor analyzed the property for bluff criteria and the slope on the lot did not meet the criteria.

Troy Koopman, owner of 1732 Canary Lane, stated the project will quadruple the value of the property and therefore property taxes paid to the City. Koopman is trying to keep the neighborhood happy with this design which has taken over eight months and has been a significant investment for him. Koopman further stated the variance request is in an area which no one can see.

Gillispie stated she understands the practical difficulty question though she would rather see this house built versus expanding the current house on the lot.

Trapp was asked if there is something about this lot that impedes the ability to put a reasonable structure on it. Trapp explained the lot is not a standard lot though the physical layout of the lot does not present a practical difficulty.

Peterson stated that City is gaining from the tear down.

Mayor noted that the lot is off the beaten path and that he is going back and forth on approval but is leaning towards allowing the variance.

Salazar stated again that the operative term is practical difficulty to build in a reasonable manner for the lot. Salazar questioned where the Council would draw the line. Smith then read variance criteria and definition of practical difficulty.

Salazar stated he thinks another size house can be built on the lot because it is a big enough lot and that the request is about aesthetics. Salazar questioned if the variance is granted and another variance application for a smaller house is denied, people will ask why the Council approved a variance for the "rich guy."

Peterson says the variance has nothing to do with the size of the house.

Gillispie said she thinks the Council would not be considering a variance if it was a flat lot and that the sloping hill is very restrictive in the build, even though it doesn't qualify as a bluff. Gillispie also stated the large house should not be held against the applicant and there are many variables to this decision.

Salazar says it's hard to justify a variance when there are no practical difficulties. Salazar feels the reason the applicant wants the variance is because the house is so big.

Koopman stated he is trying to jut the house back to give his neighbor some view of the lake and that it will not look like a big house from the road since half the house is underground and no one would know the size.

Salazar reiterated he is sympathetic to the owner but that he does not see a practical difficulty and that the applicant can still build a lovely home without the variance.

MOTION by Wegscheid, seconded by Gillispie, to direct staff to draft a resolution to approve the variance. The following voted in favor: Wegscheid, Gillispie, and Peterson. The following voted against: Salazar and Gesch. The following abstained: none. Motion carried.

11. Information/Miscellaneous

- A. Comments/reports from Council Members
- B. Reports: Harbor Wine & Spirits - Dec. 2016
- C. Minutes:
- D. Correspondence:

City Manager Hoversten reminded the Council there will be a community update from State Senator Osmek at the Feb. 23, 2016, Council meeting.

12. Adjourn

MOTION by Gesch, seconded by Gillispie, to adjourn at 10:41 p.m. All voted in favor. Motion carried.

Mayor Mark Wegscheid

Attest: Catherine Pausche, Clerk