

MOUND CITY COUNCIL MINUTES
February 12, 2019

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, February 12, 2019 at 7:00 p.m. in the Council Chambers of the Centennial Building.

Members present: Mayor Ray Salazar, Council Member Jeff Bergquist, Sherrie Pugh, Phil Velsor and Paula Larson

Members absent: None

Others present: City Manager Eric Hoversten, Director of Finance & Admin Services Catherine Pausche, Community Development Director Sarah Smith, Skip Johnson, Holly Thumann, Dan Meuwissen, Shelly DeWitt, Mary Ann Hascall, Christopher Matt Amack, Julie Amack, Karl Skeie, Bark Skeie, Tom Christianson, Nancy Christianson, Mary McCauley and Joe Ravens.

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

2. Pledge of Allegiance

3. Approve agenda, with any amendments

Hoversten offered two amendments for additional pages.

MOTION made by Bergquist, seconded by Pugh, to approve the agenda as amended. All voted in favor. Motion carried.

4. Oath of Office Paula Larson

5. Consent agenda

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

A. Approve payment of claims \$235,187.14

B. RESOLUTION NO. 19-12: RESOLUTION EXPRESSING SUPPORT FOR CBDG FUNDING OF SENIOR COMMUNITY SERVICES

C. Approve 1-4 Day Temporary Liquor Licenses for Our Lady of the Lake Catholic School Keg & Cork Fundraiser 03-02-19

D. Approve pay request #1 (and final) in the amount of \$128,982.41 to Allied Construction for the 2018 Seal Coat project, PW 18-07

- E. Approve Appointment of Andrew Heal to Planning Commission for Term Expiring on December 31, 2020
- F. **RESOLUTION NO. 19-13: RESOLUTION APPROVING THE RESOTRATION AGREEMENT RELATING TO HAZARDOUS CONDITIONS AT 5862 BARTLETT BOULEVARD IN THE CITY OF MOUND**
- G. **RESOLUTION NO. 19-14: RESOLUTION APPROVING VARIANCE FOR PROPERTY AT 4869 BARTLETT BOULEVARD**

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

None

7. **Holly Thumann and Skip Johnson, Island Park Village Hall Preservation Society, providing information on efforts to date and project status**

Skip Johnson, 3018 Island View Drive and Holly Thumann, 5907 Hawthorne Road addressed the Council. Skip Johnson said a lot of progress has been made and it is time to determine next steps. Johnson suggested the Council form a committee to work with the group. Johnson said the application for historical registry was well received and they have basically been assured approval. Bergquist asked if the reason to apply was for grant funding. Johnson said yes and that it is especially qualified because the building and the use will not change. Johnson said the roof has been patched to prevent further deterioration. Johnson said in the past the City made it clear they were not going to fund this but he said if it does not get saved, there would be a cost to demolish it and he asked for the Council to consider at least investing that amount. Pugh complemented the group on their success on the application and that she has some ideas for funding sources.

Johnson noted the Westonka Historical Society's recent talk on Island Park indicated the Village Hall is one of the few remaining historical buildings left. Johnson said about 100 people showed up for the talk, 80% of whom used to live on the island and about 50% who still do. Johnson asked what conveyance might look like. Hoversten said solutions need to be developed for the parking issues. Thumann asked why there is a different standard for parking than when it was originally built. Thumann said they have done a lot of outreach to ensure the neighbors understand and are on board. Hoversten said he believes there is a solution to parking issues, but the exercise should be done as well as the other land use issues. Hoversten said the other piece would be the financial pro-forma to show it can be viable in the long-term but he stated clearly he thinks this is a good project. Thumann said the group surveyed potential users and lots of interest was shown, most of which were not large scale. Thumann said the fire capacity is 105 but that would be the exception. Thumann said the building is in really good shape based on feedback from inspectors and architects.

Johnson asked if parking issues could cause the project to be rejected and what information is required in the pro-forma. Hoversten said the group should be proactive in thinking about the uses and potential issues as well as the ability to improve and sustain the building in the long term. Johnson said there are no guarantees in 10-20-30 years the building won't end up back in the hands of the Council. Hoversten said it becomes a problem when it has to be maintained which is why the structure of the partnership is important to consider. Hoversten said the Council should see the cost estimates of the improvements and revenue sources to sustain the

building. Hoversten shared the to-do list provided previously. Thumann asked if the expectations/steps have changed. Pugh asked what action was previously taken by the Council and Hoversten highlighted the points made in a resolution approved in May 2018 but that no funding was offered. Hoversten recommended not accepting the historical designation without understanding the long-term costs associated with maintaining those standards. Salazar said the pro-forma needs to demonstrate the long-term sustainability. Johnson said the ownership will be a non-profit so property taxes will not apply and acknowledged that the costs associated with historical designation vs. just fixing up the building are quite different. Hoversten agreed and said the historical registry requirements could be in conflict with current electric, fire, and ADA standards. Hoversten cautioned you can get a free \$1 only to spend \$10 more and some assumptions will need to be made and the architect/planner will be integral in understanding the true cost.

Johnson said the building does not need to be reconstructed, it just needs mitigation of mold and asbestos. Johnson said they can't really seek donations because he is not clear the group has the support of the Council and he needs a list of go or no-go points. Hoversten said he can't speak to the Council of what variances will be granted nor should they be predisposed to the decision without ample analysis. Hoversten said #5 parking and land-use is the next step and then suggested the group will need to weigh historical vs. preserving the character that might be easier to comply with new codes. Velsor suggested it should be easy to find out what standards take precedence based on his professional experience. Thumann said she was told it would not be an issue. Johnson said they have lots of estimates, including electrical and roof.

Johnson said he has done something similar with the WRA ball fields and Minnetrista did not want to participate either but they gave them leeway. Sarah Smith said generally parking has to be met on the property and generally off-street is not considered. Smith said the determination of whether it is a permitted or conditional use will take place, and that a public building is evaluated as a commercial property and the building official will be involved.

Bergquist said he knows it can be frustrating and said they are doing a great job. Johnson said he understands the hesitation by the City as the Jaycees redid the hall in the 1960's and if fell into disrepair and the Jaycees did not take over the running of the building.

Johnson offered to return more frequently to give the Council updates.

8. Planning Commission Recommendation:

Review and Consideration of Planning Case No. 18-18 (Variance)

Address: 6371 Bay Ridge Road

Applicants: Matt and Julie Amack

Requested Action: Approve Resolution Approving Variance for Property at 6371 Bay Ridge Road

Sarah Smith explained the variance being requested is for approval for the eaves to extend/encroach more than two feet into the setback as allowed by City Code Sec. 129-197. The condition was not discovered until after construction was completed. The property is Zoned R-1 single family residential. Smith said the original plan-set showed four foot eaves, but it did not show them relative to the setback and the survey showed the building footprint only. Smith said there were some scaling errors as well so the issue was not detected during plan review so now we are faced with correcting the issue or permitting it through a variance. The building official scaled the eaves at 3 feet 10 inches and there is an additional 22 inches beyond the

allowed two-foot allowance. Smith showed a series of elevations and noted the addition and garage were angled also adding to the complexity of the situation. Smith said the applicants have been in contact with the builder and architect and that cutting back the eaves is not an option based on the engineering of the tresses and noted there is a full gutter which is viewed as favorable. Smith summarized comments received at the Planning Commission and noted that all interested parties have been invited to this meeting. Smith said the Planning Commission recommended approval consistent with the Staff recommendations subject to conditions and findings of fact. Smith noted a revised resolution was provided at the start of the meeting and noted the changes reflect the city's review of the variance. Smith read the changes aloud.

Bergquist asked if the encroachment is on one or both sides. Smith said just the east side but noted all eaves on upper floor are four feet.

Matt and Julie Amack thanked the staff and council and asked the council to accept the Planning Commission's recommendation. Amack noted they invested in professional designs and that there have been very thorough inspections before, during and after the project, noting MNSpect signed off on each phase including the framing. Amack added that one year later they were notified there was an issue and MNSpect, staff and Xcel energy all said they could live with the condition since it does not impede, encroach or interfere with anyone's access. Amack said larger eaves have a positive impact on water control and that he takes water issues very seriously as water flow is an issue in the area. Amack showed pictures of the property before and after to demonstrate the water flow issues and the beneficial impact of the eaves and regrading on water control. Amack said the Planning Commission concurred that reducing the eaves would compound water issues on the neighbor's property.

Bergquist asked how long the addition has been finished and asked if they put heat tape on the downspouts to keep them open. Amack said no but thanked Bergquist for the suggestion. Salazar noted the prairie style design calls for the larger overhangs which controls heat in the summer and controls the water run-off and agree that they are actually helping the neighbor's situation. Velsor asked why they did not bury the overhead power. Hoversten said likely because Xcel would have to pay for it.

Tom and Nancy Christianson, 6365 Bay Ridge Road, said they have lived there since 1995 and about the addition. Nancy Christianson said they overlook the addition and they passed out their speaking notes. Christianson said their driveway was damaged by one of the contractors who brought in tons of asphalt and listed their reasons they do not agree that this variance should be granted. Velsor asked who does the foundation survey and Smith said the surveyor and it was inspected prior to back-fill. The Christianson's said they called and made numerous visits to City Hall to question what was going on, including early in the process and questioned why the Council has not been made aware until now. Christiansons said driveway contractors are concerned that the grade at the property line by their driveway was lowered by approximately 2 feet which raises concerns the water will flow under their driveway and cause deterioration/cracking/washout. Salazar suggested maybe drain tile could be an effective mitigation and the Christiansons raised concern about it being their cost. The Christiansons said they have considered adding a curb to help direct the water to the drainage easement. They said an Xcel inspector told them she would have stopped construction if she has seen the encroachment earlier. Christiansons asked again how this happened and why the proper plans did not have to be submitted to raise this issue. Velsor said as a builder, he understands their frustration, but he agrees that the roof can't practically be changed. Velsor said the plans showed the 4-foot overhang, but the level of encroachment of the easement was missed in the

review. Salazar said he felt the applicants demonstrated that they care about controlling the water for both their property and the Christianson's property. Salazar said the option is to strictly enforce the code or recognize the efforts the Amacks went to try to do this responsibly. Christiansons thanked the Council for being able to say their peace.

Mary McCauley, 6370 Bay Ridge Road, asked if there are products that could be added to ensure the water flows as intended and the easements are protected and Bergquist said yes. McCauley asked if the Amacks could be required to add gutter guards or the heating element Bergquist mentioned as another condition to the variance. Salazar said he was uncertain about requiring it, but would hope as good neighbors they would consider it. Velsor noted condition #2 requires them to ensure run-off does not adversely affect the neighboring properties. Bergquist said part of the compromise was adding the gutters and there are many properties in Mound without gutters where run off is a huge issue. Matt Amack said they are concerned and want to be a good neighbor. Amack said there is no overlap with the easement and the eave. Amack showed the relation of the neighbor's property to the concrete slab foundation and that there is a 10-foot setback. Amack said they do have gutter guards on both levels and they do clean them.

Dave Anderson, Attorney from Kennedy and Graven, said he thought it was good that the Council heard from all concerned parties, but he wanted to emphasize that the standard for variance approval is practical difficulties and not if someone is being a good neighbor or not.

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

RESOLUTION NO. 19-15: RESOLUTION APPROVING VARIANCE FOR PROPERTY AT 6371 BAY RIDGE ROAD

Changed Tape 9:02 Reopened 9:06

9. City Engineer Brian Simmons requesting public meeting and discussion regarding Wellhead Protection Plan update

Simmons said Mound is a public water source provider and is required to create a wellhead protection plan. Simmons said some amendments to the plan were made in June of 2018 and a public meeting is required to adopt the changes. Simmons said the graphic in the packet showed the sensitive areas and noted those areas are predominately within municipal boundaries. Simmons said a few additional amendments will be forthcoming in 2019 to complete the process.

10. Mayor Ray Salazar requesting action on a Conflict of Interest Policy

Mayor Salazar said he requested a policy be drafted to specifically identify what constitutes a conflict of interest in relation to serving as a City official. Hoversten noted this is also a part of the FIN-003 Procurement Policy.

MOTION by Pugh, seconded by Larson, to approve the Conflict of Interest Policy. All voted in favor. Motion carried.

11. Information/Miscellaneous

A. Comments/reports from Council members/City Manager:
Hoversten highlighted the following dates:

Feb 18 City Hall offices closed
Feb 25 Volunteer Appreciation Event
March 19 Joint City Council/Planning Commission Workshop
April 16 Department Heads Annual Reports

Bergquist asked for an update on the Depot and tennis court improvements. Hoversten said the Council authorized some interior improvements and the bids came under the budget and improvements should begin in late February/early March. Hoversten said tennis court improvements will be bid part of the utility improvement project. Salazar said the night with community leaders is tentatively rescheduled for March 30th. Pugh asked how we let residents know about the services available from the Hennepin County HRA as outlined in the miscellaneous correspondence part of the packet. Pausche said she will investigate and report back.

- B. Reports: Liquor Store - December 2018, January 2019
- C. Minutes: Docks & Commons Commission – Nov 15, 2018
Planning Commission – Jan 15, 2019
- D. Correspondence: Hennepin County HRA – Proposed 2019 Activities

12. Adjourn

MOTION made by Bergquist, seconded by Pugh, to adjourn at 9:18 p.m. All voted in favor. Motion carried.

Mayor Raymond J. Salazar

Attest: Catherine Pausche, Clerk