

**MOUND CITY COUNCIL MINUTES**  
**February 14, 2012**

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, February 14, 2012, at 7:00 p.m. in the council chambers of city hall.

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

Others present: City Attorney John Dean, City Manager Kandis Hanson, City Clerk Bonnie Ritter, Community Development Director Sarah Smith, Finance Director Catherine Pausche, Blaze Fugina, Debbie Hagberg, William Moore, Tim Hartman, Rick Hagberg, Steve Bona

*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**

Hanus requested the addition of Item 4F, WeCAN request for support for CBDG grant.

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

**4. Consent agenda**

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

- A. Approve payment of claims in the amount of \$636,996.15.
- B. Approve Pay Request No. 7 from GMH Asphalt corp. in the amount of \$84,498.64 for the 2011 Street, Utility and Retaining Wall Improvement Project (PW-11-01 and 11-02)
- C. **RESOLUTION NO. 12-21: RESOLUTION AWARDDING CONTRACT FOR THE ISLAND VIEW DRIVE TO WINDSOR ROAD WATERMAIN LOOP PROJECT**
- D. **RESOLUTION NO. 12-22: RESOLUTION APPROVING PUBLIC LANDS PERMIT FOR TREE REMOVAL AND TRIMMING AT 2851 CAMBRIDGE LANE**
- E. Requests from Interim Police Chief Dean Mooney
  - (1) Approve Professional Services Agreement with Sojourner Project
  - (2) Approve Professional Services Agreement with CornerHouse
- F. **RESOLUTION NO. 12-23: RESOLUTION RECOMMENDING CONTINUATION OF CBDG FUNDING OF WESTONKA COMMUNITY ACTION NETWORK (WeCAN)**

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

None were offered.

**6. Review/discussion/action on resolution denying variance for 3070 Highland Blvd. (PC Case 11-13) – item tabled at January 24, 2012 meeting**

Sarah Smith reviewed that at the December 13<sup>th</sup> meeting, Council directed Staff to prepare a resolution of denial to be brought back for consideration. A draft resolution was presented based on the directive, and additional information has been provided by the applicant who has requested further consideration by the Council. The applicant, William Moore, also spoke to the Council in defense of his proposed variance.

Hanus stated that he is trying to protect the code and the standards that have been set, and that he feels that in a legal sense granting this variance would not set precedent, but in a practical sense it would. Osmek and Gesch expressed concern over the designation change that would occur from accessory structure to primary structure, by connecting the house to the garage with a breezeway. Salazar and Gillispie indicated that they believe this to be a reasonable request due to it not affecting neighbors and meeting other criteria of granting a variance.

MOTION by Osmek, seconded by Gillispie to adopt the resolution for approval that is included in the packet, with the addition of two conditions: (12) Front load garage entry and driveway must be removed; and (13) The structure that is now the garage cannot be used as living space. The following voted in favor: Gillispie and Salazar. The following voted against: Hanus, Gesch and Osmek. Motion failed.

MOTION by Osmek, seconded by Gesch to adopt the following resolution as amended with date clarifications. The following voted in favor: Hanus, Gesch, and Osmek. The following voted against: Gillispie and Salazar. Motion carried.

**RESOLUTION NO. 12-24: RESOLUTION TO DENY VARIANCE REQUEST FOR PROPERTY AT 3070 HIGHLAND BOULEVARD. P&Z Case #11-13, PID #23-117-24-43-0001.**

**7. Review/discussion with Jeff Schoenwetter of JMS Custom Homes and Tim Hartman regarding request for use of Chapter 429 financing for Woodlyn Ridge Subdivision**

Sarah Smith reviewed that at the November 8<sup>th</sup> meeting, the Council referred this item to Staff for additional research, including financial scenarios and bonding, assessable costs and information related to previous 429 projects. Hanus asked if bonding is switched to a Letter of Credit, can it be drawn upon and distributed to others. John Dean answered that it would be an Irrevocable Letter of Credit and is literally the same as cash.

Finance Director Catherine Pausche presented calculations of potential increase in City property taxes, as well as a calculation of negative arbitrage based on different bond rates. Hanus asked, with our yearly street project bonding, if we're reaching a threshold where interest

rates may be affected because of our total bonded debt, and Pausche indicated that we're only talking \$340,000 here, and this would not have an effect.

Jeff Schoenwetter of JMS Custom Homes addressed the Council, summarized that the 5% pay rate is important to them, which means tax exempt status is important. The five-year term that's summarized in staff report is agreeable to them. The Letter of Credit is agreeable and he feels that this makes more sense than bonding. He emphasized the rewards to the City on this proposed project, including the increase in tax base. Prepayment of the assessment would mean an increase in the tax base, so feels that any negative arbitrage would be minimal and short-lived. He also stated that the closing of a property would trigger payoff of the assessment. He requested that the Council approve to allow them to submit application for 429 financing.

Gillispie asked if the developer can at any time pay off the assessment early and Pausche stated they could. This is a small project and the City can float this interest if they have to so they shouldn't get hung up on the negative arbitrage. Hanus stated that as a representative of the people who are paying tax dollars into the city, if one dollar of their tax dollars goes towards helping fund a private housing development, they would be upset, and rightly so. He was assured early on that there is no risk. Pausche stated that the letter of credit is the no risk.

John Dean asked Pausche if using a Letter of Credit to cover negative arbitrage makes it taxable. She stated that negative arbitrage can't be assessed. Dean stated that is understood, but the question is if the developer is guaranteeing payment of the negative arbitrage through the letter of credit, is that a private activity that makes these bonds taxable? She indicated that she wasn't sure and he stated that it's important that she find this out from bond counsel.

Gesch asked that if it is determined that the letter of credit can cover the negative arbitrage, there is truly no way the City can lose out, and Dean stated that is true, unless something goes wrong with the letter of credit, but another issue not handled yet is the size of the letter of credit and if it can handle all risks. Gesch stated she needs answers to that before she could make a decision on this.

Hanus stated that the applicant is asking the City to allow them to apply for 429 financing at this point, and the City can get answers to the questions posed earlier before any action is taken on that application. John Dean stated that Staff will also be drafting a 429 policy that will address some of these concerns.

MOTION by Osmek, seconded by Salazar to allow the JMS Homes/Woodlyn Ridge to apply for 429 financing and require the applicant to come in with plans to eliminate the City's risk for negative arbitrage. All voted in favor. Motion carried.

**8. Approve minutes**

MOTION by Gesch, seconded by Osmek to approve the minutes of the January 24, 2012 regular meeting. The following voted in favor: Gillispie, Hanus, Gesch, Osmek. The following voted against: None. Salazar abstained from voting because he was absent from that meeting. Motion carried.

**9. Information/Miscellaneous**

- A. Comments/reports from Councilmembers/City Manager
- B. Reports: LMCD Report on herbicide treatments
- C. Minutes: Docks & Commons Commission – 1/19/12
- D. Correspondence: None.

**10. Adjourn**

MOTION by Osmek, seconded by Gesch to adjourn at 8:52 p.m. All voted in favor. Motion carried.

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Mayor Mark Hanus

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Attest: Bonnie Ritter, City Clerk