

MOUND CITY COUNCIL MINUTES
March 12, 2019

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, March 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, City Engineer Brian Simmons, Jon Ciati, Kelli Gillespie-Coen, Scott Gates, Colin Charlson, Senator David Osmeck

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

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

4. Consent agenda

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

- A. Approve payment of claims \$171,193.66
- B. Approve minutes of 02-26-19 regular meeting
- C. **RESOLUTION NO. 19-19: RESOLUTION APPROVING PUBLIC GATHERING PERMIT AND MUSICAL CONCERT PERMIT FOR 2019 TOUR DE TONKA AND REDUCED FEE DUE TO PUBLIC PURPOSE OF GATHERING ON SATURDAY, AUGUST 3, 2019**
- D. **RESOLUTION NO. 19-20: RESOLUTION APPROVING PUBLIC GATHERING PERMIT AND MUSICAL CONCERT PERMIT FOR 2019 RIVER VALLEY ANNUAL CHURCH PICNIC AT SURFSIDE PARK AND BEACH ON SUNDAY, JUNE 9, 2019**
- E. **RESOLUTION NO. 19-21: RESOLUTION APPROVING PUBLIC GATHERING PERMIT FOR 2019 MINNETONKA CLASSIC FISHING TOURNAMENT AT SURFSIDE PARK AND BEACH ON SATURDAY, JUNE 1, 2019**

- F. **RESOLUTION NO. 19-22: RESOLUTION APPROVING PUBLIC GATHERING PERMIT FOR 2019 MNBN TEAM TRAIL/MN B.A.S.S. NATION FISHING TOURNAMENT AT SURFSIDE PARK AND BEACH ON SUNDAY, JULY 28, 2019**
- G. **RESOLUTION NO. 19-23: RESOLUTION AFFIRMING THE CITY OF MOUND HAS NO COMMENTS REGARDING THE 2040 SHOREWOOD COMPREHENSIVE PLAN**
- H. Approve a 1 – 4 day temporary on-sale liquor license for the Northwest Tonka Lions April 7, 2019 Pancake Breakfast Fundraiser at the Gillespie Center
- I. Approve third amendment to lease agreement with Westonka Historical Society
- J. Approve Pay Request #1 to Hydro-Klean Inc. in the amount of \$125,279.78 for the 2018 Manhole Inspection, Jetting, and Televising, Project PW-18-04

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

None

Council Member Sherrie Pugh recuse herself from the council chambers at 7:05 p.m. due to her position on the State Legislative Salary Commission. Members of the commission are prohibited from having any contact under rules of the state constitution with state legislators during the time the commission is convened to review salaries (March 1 to March 31, 2019).

6. Senator David Osmek providing an update on the ongoing legislative session to residents and City Council

Senator David Osmek said he is here to give an update to the Council. Osmek said he chairs the energy and utilities committee which is currently working on community solar gardens. Osmek said 90% of energy produced is going to non-residential uses and that was not the intent as residential consumers pay more for solar and are not benefiting. Osmek said the committee also deals with telecon issues Osmek is also on the transportation committee and two bills are currently under discussion. One is for hands free and Osmek's bill is to strengthen the penalties, including if there is a death due to distracted driving, it will be treated like drunk driving. The bill also requires the topic to be part of drivers education courses. Osmek sits on capital investment committee and is currently trying to get funding for a bridge in Deephaven but also encouraged Mound to submit priorities. Osmek sits on local government committee and there is a bill that addresses cities use of consultants and the requirement for a city to estimate consultant fees if the fees are going to be charged back to applicants. Osmek says he often draws upon his experience as a council member for 11 years.

Bergquist asked about the gas tax. Osmek said it probably won't happen as the highway user distribution fund is estimated to exceed inflation by 89%. Osmek said it is funded by three sources – two of which are sales tax and indexed to inflation. Osmek said there are a finite group of contractors and more funding could just drive price increases.

Larson asked how the public can contact him. Osmek said email is best at Sen.david.osmek@senate.mn and by phone is 651-296-1282.

Council Member Sherrie Pugh returned to the chambers at 7:20 pm.

7. Catherine Pausche, Director of Finance and Administration, requesting discussion on Mound Harbor LLC's request to renegotiate the purchase and development agreement for a townhome project in the Harbor District and requesting direction from the City Council on how to proceed

Pausche walked through the Power Point that was included in the packet, including the timeline of the request for qualification and interest (RFQ/I), selection of the preferred developer and approval of the Purchase and Development Agreement. Pausche said soil conditions prompted recommendation to use helical piers to support foundations at a cost of \$500K - \$600K, so the developer has asked for the City to consider the following concessions (or some combination thereof) to off-set the extraordinary corrections required:

- Eliminate street lighting requirement (\$30K)
- Eliminate/reduce Park Dedication Fees (\$66K)
- Escrow purchase proceeds (\$600K of the \$660K) for qualifying piling costs (builder spend-down)
- Allow for tax increment financing (TIF)

Pausche said the developer has also requested the City provide a Phase II Study for a portion of land identified in the Phase I Environmental Study at an estimated cost of \$20K to determine if any additional remediation is required.

Pausche said the Purchase and Development Agreement allows the developer to terminate the agreement due to either (1) consequence of dissatisfaction with physical condition or (2) failure on city's part to cure title objections and that in both cases, the developer is entitled to a refund of the \$20K earnest money.

Pausche reviewed the original objectives for issuing the RFQ/I including: (1) Responds to feedback from the Market Study and shifting economic forces (ie., on-line retail), (2) Respects existing businesses, available square footage (residential vs. commercial) (3) Complements Lost Lake development, reduces intensity of use, allows for continued public enjoyment of area, and (4) *Creates a competitive process to test the market while leaving all options on the table.*

Pausche said the City Council proceeded with the project after RFQ/I because the proposal created a \$12M+ townhome development that equates to over \$100K in additional tax increment that provides relief to the debt service levy and 21 new housing units that provides an economic boost to area businesses. In addition, the \$660K for land and fees paid upfront would offset deficits in debt and capital funds related to redevelopment, pay for administrative costs (legal/engineering) and fund future park/green space improvements. Pausche said the Development Committee concluded that diminishing either of these public benefits by renegotiating the terms forces reconsideration of some of the concerns raised by the community when the purchase and development agreement was approved.

Pausche listed the following considerations in deciding whether or not to renegotiate:

- Loss of current and future cash flows if no project will impact levy assumptions
- Prior precedents – builder who completed Lost Lake townhomes had to cover cost of piers and all city fees (no concession)
- Reopening negotiation takes the market forces that were present with the RFQ/I process out of the equation and diminishes the public benefits assumed when the project was initially approved

- New or revised initial assumptions regarding the downtown should inform current decision making and future processes
- The conclusion of the Development Committee is that it is not in the city's interest to reopen negotiation

Velsor said he serves on the Development Committee with Mayor Salazar and said when a concerned citizen asked him about the project he felt he could defend it whole-heartily but now with the new proposal it no longer feels right and the benefit is not there.

Paula Larson said she is new to the Council but that she has received numerous phone calls about the project and the desire to keep it as green space, including a former mayor who also suggested it should be kept as green space for the benefit of all citizens.

Salazar said all options are still on the table but that this revised proposal no longer meets the original objectives.

Sherrie Pugh said she is also new to the Council however that while campaigning/door knocking she heard that people were not in support of the project because they really valued the open space, in addition to Surfside, and she agrees with the Development Committee to not renegotiate.

Jeff Bergquist agrees with the decision not to renegotiate, but he is open to development in the area.

Salazar agreed that all options are available for the future and asked Staff to clarify needed steps.

Hoversten said based on the discussion, Staff requests that the Council direct Staff to communicate to the developer that the City is not open to renegotiation so that the existing agreement remains in place and it is up to the developer to decide whether or not they want to proceed.

John Ciatti, 6064 Ridgewood Road, thanked the Council for standing their ground as he thought the \$660K was a steal and that this is a special space. Ciatti said he questions whether townhomes are the right fit and he suggests waiting out the market for something that is more important to the town. Ciatti said he likes the original vision with some retail.

Scott Gates, 4363 Wilshire, said he agrees with what has been said including it not being the right project or the right price. Gates asked to go back to the basics and get rid of this very narrow RFQ/I that went out. Gates said the City should have gotten many more responses. Gates said the soil conditions are no surprise and he thought it was one of the reasons the sales price was so low. Gates said the original economic benefit was not sufficient to begin with. Gates said the cost to keep the land is minimal to the tax base. Gates said development can be beneficial, but the City has been paying for it anyway. Gates said he has done several sketches and he has talked to numerous developers. Gates said retail, commercial, residential and open space do not have to be competing goals and that all can be accommodated. Gates said to take the developer's email as a notice of termination and accept their termination. Gates said Mound will never be an Excelsior or Wayzata, but we can have some of those amenities. Gates said this has been a \$7M project to create waterfront activity in the downtown and the City should have done more in-depth testing of the soils prior to embarking on the entire project. Gates encouraged those type of due-diligence actives be done going forward. Gates said

\$660K represents 4% for land cost of a \$700K unit, and with the pilings it is 8.4%, whereas in the development community, it is common to pay 10-15% for the land for multi-family townhome projects and even more for single family. Gates said he feels the developer should have had no problem covering the additional costs.

Sherrie Pugh asked for clarification that if the motion is to not renegotiate, it does not end the project, but rather puts it back in the developer's court. Hoversten confirmed the project could move forward under the existing terms of the Purchase and Development Agreement.

Gates, 4363 Wilshire, suggested the City consult with the City attorney about whether or not the developer's email was a formal rejection.

Pausche said all the Council is acting on is the question of whether the City wants to enter into renegotiations or not, and that the City still has a contractual obligation and if the developer decides to proceed with the existing agreement, they can.

MOTION by Velsor, seconded by Pugh, to direct staff to reject the developer's request to renegotiate the terms of the Purchase and Development Agreement. All voted in favor. Motion carried.

8. Information/Miscellaneous

A. Comments/reports from Council members/City Manager:

Thursday, April 11th 7:00 am Gillespie Center – WeCAN Community Breakfast

Wednesday, March 13th Westonka Performing Arts Center WCC Night with Community Leaders

Tuesday, March 19th 6:00 pm Joint Planning Commission and City Council Special Meeting

Tuesday, April 16th, 6:30 pm Supervisors Annual Reports and Long-Term Financial Plan

Hoversten said Hennepin County has issued a spring flood watch due to rapid melt and clogged storm water catch basins. Hoversten requested citizens report issues to city hall during office hours and call 911 for bonafide after-hours emergency. He appealed to residents to consider clearing catch basins in their neighborhood. Hoversten said Hennepin County property map and Bing maps can help locate the catch basins. Hoversten said road restrictions are in effect tomorrow and state restrictions go in effect Friday.

B. Reports: Fire Dept. – February 2018

C. Minutes: Planning Commission – February 5, 2019

D. Correspondence:

9. Adjourn

MOTION made by Bergquist, seconded by Larson, to adjourn at 8:30 p.m. All voted in favor. Motion carried.

Mayor Raymond J. Salazar

Attest: Catherine Pausche, Clerk