

MOUND CITY COUNCIL MINUTES
March 22, 2016

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, March 22, 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, and Kelli Gillispie

Members absent: Jennifer Peterson

Others present: City Manager and Public Works Director Eric Hoversten, Fire Chief Greg Pederson, Planning and Development Director Sarah Smith, Field Officer Stewart Simon, Administrative Assistant Mary Mackres, City Attorney Melissa Manderschied, and Katie Morford.

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 Gesch, to approve the agenda. 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 \$213,614.49

B. Approve minutes: March 8, 2016 Council Meeting

C. RESOLUTION NO. 16-36: RESOLUTION TO AUTHORIZE CITY MANAGER TO ENTER INTO A CONTRACT WITH SIMPLEX GRINNELL FOR FIRE AND SAFETY SYSTEMS MONITORING SERVICES AT WELL HOUSE #3 AND WELL HOUSE #8

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

None offered.

6. Eric Hoversten, City Manager, requesting action on a resolution authorizing City Manager conferences, training, dues and subscriptions for 2016

Hoversten provided to the council an itemized listing for professional affiliations and conference attendance proposed for the City Manager and Public Works Director functions, which totaled \$4,308.70, or 80% of budget.

Hoversten noted the national conference for the APWA is being held in the Minneapolis area this year so that would not incur overnight lodging costs in addition to the City Engineers Association Annual Conference also being held in Minneapolis. Hoversten requested approval of the resolution.

Mayor Wegscheid applauded Hoversten's effort to seek out further education and expand on his city manager responsibilities, but said that the MN City County Managers Association (MCMA) is an arm of the International City County Managers Association (ICMA), which is an extension of the United Nations. Wegscheid said this is not an organization that reports to, or takes guidance or direction from, our governor, from our local councils, our state senate, the House of Representatives, or any part of the federal government, making it a body outside the U.S. government. The Mayor added Mound is a form of local government in the United States and we are a sovereign country. Mayor Wegscheid believes that a local government shouldn't take influence from any organization in any way that is not bound by the same building blocks that the City of Mound prescribes to. Wegscheid says these organizations come across with what seem to be great ideas, are very friendly to environmental issues and push for equality in a lot of areas, all under certain pretenses that look favorable. The Mayor added that whenever he has a discussion about these groups, there is a quote that rings true for him. It is a quote from Daniel Webster, who was a U.S. senator in the 1800s. "It's hardly too strong to say that the constitution was made to guard the people against the dangers of good intentions. There are many men in all ages, who mean to govern well; but they mean to govern. They promise to be kind masters; but they mean to be masters."

Wegscheid stated that his point in reciting the quote is that these organizations come off as very friendly with very good appearing intentions; but, the truth of the matter is that the more you look into them, they are against private property rights, they want government to control all productive land, and, in their mind, to share in the equity with the population. Wegscheid says that everybody has their rights and opinions and that is what is great about the United States. Wegscheid says this is his opinion. The Mayor added that although he supports Hoversten's requests, the Mayor does not support the processes or theories of the ICMA and does not support the City funding the organization.

Salazar stated he concurs exactly with the Mayor's thoughts about the ICMA and would not support the City Manager's participation in the Minnesota City County Management Association or his membership in it.

Gillispie mentioned that the Westonka Community and Commerce dues have increased this year to \$125. Gillispie brought this up to inform the council.

Gesch wants to clarify that first two line items in Exhibit A are to be excluded from the resolution.

Wegscheid reminded Council that this is not a final notice of all the meetings and/or conferences that Hoversten can participate in. If something comes up at a later time, Hoversten can come back to council to request more funds.

MOTION by Salazar, seconded by Gesch, to approve resolution, with amendment to exclude the first two line items in Exhibit A. All voted in favor. Motion carried.

RESOLUTION NO. 16-37: RESOLUTION AUTHORIZING CITY MANAGER CONFERENCES, TRAINING, DUES AND SUBSCRIPTIONS FOR 2016

7. Fire Chief, Greg Pederson, requesting discussion and direction to staff regarding Mound Fire Department participation in a grant-funded study of potential shared services among multiple local departments

Pederson presented the fire district shared services study for several area fire departments. Pederson started working on this project in 2002 which shows these concerns and the concept of shared services have existed for many years, but change is generally difficult for the fire services. The sharing of services and apparatus has been much more of a topic for discussion lately. The West Hennepin Lakes Fire Group has been meeting to talk about issues facing fire services. There are two specific priorities that the fire department wants to study in this grant – 1) Using a regional fire training coordinator among a number of departments. This would be beneficial in order to get more consistent and better trained fire fighters, especially important with the increase in use of mutual aid between departments. Pederson stated the Mound Fire Department's training is very good and he is an advocate of training with our neighbors to make everyone better.

2) The second priority is regarding recruitment and retention of staff. Pederson stated many fire departments struggle with daytime response time due to the lack of staff availability. Pederson stated these two goals are modest but also complicated. The West Hennepin Lake Area Fire Group (WHLAFG) was organized to address this problem. He added that other cities involved have approved the study and Mound is behind in approval due to the transition of the new City Manager. Pederson noted the Mound Fire Department is working well with 40 firefighters and good administrative support, but said the wait list of applicants is down from past years. Pederson said Mound's apparatus and equipment are well maintained and the facility fits Mound's needs well.

Pederson reported that the number of firefighters has been consistent over the years, retirements are spread out and there is a succession plan in place. Pederson says the department is looking to up their recruitment this year. The MFD never advertised in the past but may start to recruit at the high school. Pederson stated the issues in fire service include training and recruiting/retention especially in rural areas. He added that the number of volunteer firefighters decreased 100,000 in the U.S. over the past 30 years and, in response, the number of career full-time firefighter numbers are going up.

Pederson added that all volunteer firefighter departments are a bargain to cities which have them. Pederson presented statistics which showed in 2002 that 76% of FD's in the country were all volunteer units and by 2014 the trend is going down as 66% of Fire Departments are now all volunteer.

Pederson said the study will look at personnel, apparatus/equipment and facility issues which FD's face. He added the calls for Fire Department services are going up and the FD wants to look to the future and maintain the Mound volunteer fire model as long as it can. Pederson added paid on-call volunteer Fire Departments are facing higher call volume, a lesser number of structure fires, and more medical calls and mutual aid calls. Mound uses larger fire apparatus less which saves money and is a good opportunity to share with other

City FD's. He feels it is a good idea to look at the larger picture with the neighboring cities. Minnetrista is very interested in this study.

Pederson says the shared services grant program will fund a maximum of \$40,000 to applicants. No money is coming out of Mound's budget. However, a 10% match is required, but this can be in in-kind services. Mound's commitment would be \$5000, which could be \$500 in labor, which could be done in one day. Cities are not required to make changes based on the study's recommendations.

Pederson said the grant was awarded about a month ago in the amount of \$23,500. A firm, McGraf Inc., has been chosen to complete the study. Other city councils in the WHLAFG have approved participation in the study other than St. Bonifacius which declined to participate. Chief Pederson supports the concept and recommends that Mound participate.

The Mayor asked if the study is looking at outcomes, will it give recommendations on how to get there? Pederson says that recommendations and action items will be part of the plan.

Pederson says the study must be completed and grant money awarded by June 30, 2016. Pederson says that Mound is ready with their information once approval is made. Wegscheid asked what the process is for review. Pederson says that representatives from each city would sit in with other elected officials to discuss.

The Mayor agreed that it is good to be proactive. Pederson thinks the west metro will continue to grow and noted Minnetrista is now paying 26% of Mound Fire Department's budget. Minnetrista is not interested in starting their own Fire Department and still expects Mound to cover their City. Mound's share of the budget over the past 10 years has gone down to about 54%.

Gillispie asked if the grant covers the entire cost of study. Pederson confirmed yes, with the exception of the in-kind service at 10% each Fire Department must contribute. Gillispie reminded Pederson of the local job fair being held at Westonka High School in April with all the local businesses and said she will forward information to Pederson.

Salazar concurs that this is a great study and good business going forward. Mound Fire Department is in the business of putting out fires and saving lives. Salazar is sad to see that St. Bonifacius has declined to participate.

MOTION by Salazar, seconded by Gillispie, to direct the City Manager to engage in the shared fire and rescue services study and to send out the enclosed letter. All voted in favor. Motion carried.

8. Planning and Community Development Director, Sarah Smith, providing a presentation on League of Minnesota Cities Insurance Trust (LMCIT) Land Use Incentive Program and Land Use Training by PC, Staff and CC

Smith presented information for the City to participate in League of MN Cities Insurance Trust (LMCIT) land use trust program. Smith added the cost is relatively inexpensive at \$30 per course and requires that one class be taken online by three members of the council, the planning commission chair, plus one additional member, and the person responsible for the

day-to-day planning activities which is typically the City Planner. Smith added that the City Planning Commission talked about the program at a recent meeting and there are several members who are interested in participating. Smith mentioned that after the first six online course fees are paid, all other courses are free.

Smith conveyed that each course is approximately 45 minutes long, with a short quiz at the end. Smith suggests that if the Council does commit to this, we should move quickly as once all the courses are completed, the endorsement gets put on the City's policy. Smith feels that for \$180, this is very little money for some good training. Smith says that there is no timeline requirement and this can be done on everyone's own schedule. Smith says that the sooner all the required courses have been completed, the sooner the endorsement is put on the policy, saving the City money on any potential insurance claims.

Mayor Wegscheid feels this is a reasonable opportunity and suggests that Peterson should be a participating member from the council as she is the liaison to the Planning Commission. Wegscheid stated he would like to participate, as well as Gillispie, as they are on the Development Committee.

Gillispie sought clarification from Smith on which courses need to be taken. Smith said that in order to qualify for the endorsement, the six individuals must take the first course. After the six paid courses, any more who want to take a course can do so at no cost.

Hoversten stated that we need to confirm the "starting lineup" in order to meet the minimum requirements for the endorsement. Hoversten said that ironing out who those first people are to take the courses is important. Once the City has met the required commitment, then the opportunity can be opened up for others to enroll in the courses.

Smith says that all of the Planning Commission members are interested in taking the LMCIT courses.

MOTION by Wegscheid, seconded by Salazar, to direct staff to participate in the LMCIT Land Use Incentive Program. All voted in favor. Motion carried.

Smith says that staff will get everyone signed up with a log-in code to participate.

9. Planning and Community Development Director, Sarah Smith, requesting discussion and action on An Ordinance Amending Chapter 2 of the Mound City Code as it Relates to Administration and provisions for Administrative Fines

Smith presented an amendment to Council to utilize another tool to promote and obtain compliance with city code violations which are attached to land. Staff has put together a model ordinance based on existing code regulations of the City, incorporating a process on when to use the administrative fines, how to use it, an appeal process, establishment of a hearing officer, establishment of a process that allows for an appeal by an aggrieved party in the event they disagree with the hearing officer, providing a due process in the event there are concerns with the administrative citation.

Smith shared some background information on the city code violation process. The City uses a complaint based code enforcement policy. Smith says that the usual and customary process is that the City gives a warning; a seven-day period elapses; there is a new

inspection; then there is a second warning given; then, another seven days elapses; then, a third and final notice is given. In most cases, there is about 90% compliance with self abatement. Smith says that there is still a gap. There are a handful of cases that need a stronger tool or an alternate tool to achieve compliance. Smith says that the City wants to work with property owners. This code gives the City the opportunity to issue an administrative citation. According to Smith, this can be used for anything attached to land such as building code and property matters. In the event that an administrative citation is issued and a fee is assigned and not paid, the City can assess this amount to the property taxes. The City wants to hear from the people who have caused the problem. Absent a reaction from them, then the City can issue a citation. The administrative citation kicks in and gives a grace period of seven days. If, after seven days, the person does not comply, then a daily penalty kicks in. Fees are increased per day, and at the end of the period allowed in the code, the penalty fees would be due and payable. If the person does comply in the end and they will have their fees waived if the code issue is taken care of. Smith does not think this would be the primary tool, but will be another tool to use.

Smith stated that the key is the City still has an opportunity to issue a warning, to issue a citation, and for the fees to be waived in the event of a decision and appeal process. Smith says the City wants compliance, but also to be reasonable. Smith has seen that people take notice when there is a monetary fee associated with compliance issues.

The Mayor stated that when action is not being taken the City needs to have some teeth to make change happen. Wegscheid added the administrative action is an exploratory effort to see what the options are for resolution to on-going code violations. Wegscheid said he would like to see the process clearly written in the code to ensure the person receives proper notice of the timeline of the process before the threat of a fine.

Manderschied clarified with Wegscheid if he is asking for a correction notice to be put into the code. Wegscheid wanted to know how we validate that a warning is received. Is it done through certified mail? Mayor Wegscheid stated that if the City is taking the time to find someone, then the City should also take the time to make sure the person understands the process they face.

Wegscheid asked if this would apply to CUP violations as well. Smith stated that the CUP process is different. The administrative citation process would not be a tool to be used in the CUP violation. Wegscheid says that the ultimate goal is to work out the issue and get a positive result. Wegscheid added the only tool with CUP is to suspend their business. He asked if the Council if they feel this needs to be a part of the CUP process.

Gillispie thinks there should be something more with the CUP as these tend to take too long of time to be resolved.

Gesch says that CUP violation and nuisance violations do not go together. Gesch believes there could be something similar to this code to be used for CUP violations.

Salazar agrees with Gesch that there is a need for something similar but CUP issues can be addressed at a later meeting.

Mayor stated that Section 3a states that anyone in the City can enforce the code. Wegscheid feels that this needs to be clarified as to which staff person can enforce city code. Manderschied responded that the type of violation dictates which staff position is charged with enforcing the code. Smith stated that if someone is gone, the City would still want to be able to issue a citation.

Wegscheid said that in Section 3b, it states that if a hearing is requested, this must be done in writing by the property owner, and they must add the property address at which the violation is issued to and that this needs to clearly be spelled out. Wegscheid also said that in Section 7, Item 4, it should be clearly stated that once the fine is assessed, we don't continually fine. Wegscheid states that he is not comfortable with the fine schedule and believes two hundred dollars per day is a lot and noted the Council is not here to bankrupt people, they are here to resolve an issue. Wegscheid thought two hundred dollars per day will lead to a lot of noise. The Mayor asked for feedback from the council.

Salazar stated that he agrees this tool is necessary; however, it needs to be retooled. He said the fees are highly punitive and the two hundred dollars per day is ridiculous as, too often, problems that occur with people's properties are from lack of money in which to fix the problem or procrastination, or both. Slapping people with a large, daily fine will exacerbate the situation. Salazar says he was upset when he read this and that he believes a flat fee is reasonable, but a punitive compounding fee is not good. Salazar says the whole process needs to be retooled and the City needs to do something though this is too much.

Manderschied said a manageable option is to have a fee structure based on the passage of time. For example, \$100 for days 1-7, \$150 for days 8-14, etc., maxing out at a certain number. Manderschied asked Salazar if this is something he would deem reasonable. Salazar stated he wants a flat fee.

Gillispie said she does not agree with a flat fee.

Gesch likes Manderschied's suggested fee schedule because with more time and a little bit more bite, Gesch feels that the offender can have the chance to fix things. Gesch says this gives the people time to react, and does not feel the per day increasing fines are workable.

Smith mentioned repeat offenders, and asked if the Council is comfortable if the City uses a double fine structure with these chronic conditions? Smith said that sometimes the City gets compliance and everything is good for 60 days or so, and then everything starts to fall apart again. Smith feels that the City could use one-year as a look-back period. The City would use the same schedule that the council has been talking about it, but the fee would be doubled.

The Mayor said he thought the look back provision seems reasonable.

Manderschied says that the look-back provisions are helpful especially if the person appeals and you get to the hearing officer stage, the violators typically raise the argument that they didn't know this was a violation. When you have that look-back period, they can't have that argument because they have already been fined for it.

Gillispie wanted to clarify the process: 1) a warning is issued; 2) seven days pass; 3) second warning; 4) seven days pass; 5) third and final warning, then fine? Smith says the City gives

three seven-day warnings. Smith says that the City tries to work with people to get compliance. It's the last 10% that is most bothersome for the neighborhood.

Gillispie has no issue with \$100 for the first fine with then \$50 per week. She stated there needs to be teeth or the issues will not be resolved by the 10%.

Gesch is ok with the graduated fee schedule with enough time for people to resolve the issue.

Manderschied has learned that the timing of the notice is critical. Most people need the weekend to do the work. Manderschied suggested giving fewer warning notices, but 14 days to comply so they can utilize weekend time.

Wegscheid feels it would be beneficial to give them two weekends to comply to a warning.

Salazar likes the idea of incorporating the weekends, but doesn't like fewer warnings. Salazar feels that 10 or 14 days and three notices would work well. What about people who leave their homes for extended periods of time? What about snowbirds?

Smith says that the City uses different methods to get in touch with people. Different sections of the code state different ways to notify people. Smith says the City will use all methods when appropriate. The City does a pretty good job of trying to make contact with the people. She added the majority of cases the City sees occur when the weather is warm.

Hoversten says the definition to serve notice in a certified mail methodology would be most appropriate because the City would either get a certified receipt or know there was no one at the property.

Manderschied feels it is helpful to send out notifications by first-class mail as well because there is a different forwarding protocol for that.

Salazar says it is important to give people as much time and work with them and seven days is too short, but felt ten to 14 days and three attempts are reasonable.

Smith says that the majority resolve themselves within the first seven day period.

Gesch restated that the sections of the code that need to be worked on are the 1) fee schedule; 2) money/timing; 3) notification process; and, 4) warning system. Smith says she will add specific language on the intent and scope of this process which is for violations based on things attached to property/land and not other areas. Smith says the code also needs to define the look-back period. Smith confirmed with the Council that it is fine with the repeat offender portion and that the fees would be doubled. Wegscheid suggested putting language in the code that states that once fees are assessed the fees will terminate at some point.

MOTION by Salazar, seconded by Gillispie, to table the ordinance for re-tooling to be ready for discussion at next Council meeting of April 12, 2016. All voted in favor. Motion carried.

10. Discussion and action to approve Resolution Authorizing Publication of An Ordinance by Title and Summary, as it Relates to Administration

Refer to discussion of the ordinance in Item 9 of the agenda.

MOTION by Salazar, seconded by Gesch, to table resolution for re-tooling of ordinance to be ready for discussion at next Council meeting of April 12, 2016. All voted in favor. Motion carried.

11. Resolution Amending 2016 City of Mound Fee Schedule

Refer to discussion of the ordinance in Item 9 of the agenda.

MOTION by Salazar, seconded by Gillispie, to table resolution for re-tooling of ordinance to be ready for discussion at next Council meeting of April 12, 2016. All voted in favor. Motion carried.

12. Information/Miscellaneous

- A. Comments/reports from Council Members
- B. Reports: Mound Fire Department Activity Report - Feb 2016 YTD
- C. Minutes: Planning Commission - Feb 8, 2016
Planning Commission - Feb 16, 2016
- D. Correspondence: Sr. Perspective Magazine Article on Westonka Historical Society (Mar 2016)

Fire Chief Pederson shared the story of starting the heart safe community program. Pederson worked with Kevin Borg of the Westonka School District to get all the students at Mound Westonka High School (MWHS) trained in compression-only CPR. Pederson found that it is very difficult to get 1 ½ hour time of 900 students at MWHS. Pederson commented that the staff there was impressively organized. Pederson said there was an article in The Laker about heart safe/hands on training.

Pederson stated the event was held on Thursday, March 10, 2016, in which employees from numerous public safety agencies taught life safety skills to 900 students. The 900 were split up into three groups: AED use, compression only CPR, and survivor stories. Fifty-five instructors came in from the outside to assist with the training.

Pederson shared that Hennepin County is one of the top two counties in the U.S. for survival of cardiac arrest with an about 50% survival rate. Compression-only CPR is very easy to learn. Pederson shared various stories of survivors who were alive because someone performed CPR. Pederson shared two dates where the Mound Fire Department will have instruction on heart safe compression-only CPR:

Tuesday, April 26, 2016, 7:00 pm - 8:30 pm at the Gillespie Center
Saturday, May 7, 2016, 9:00 am - 10:30 am at the Gillespie Center

Pederson said there will be more sessions in the future including an event in April at the Orono Middle School. That one is not open to the public.

Pederson shared pictures of the event held at MWHS and encouraged the council to attend one of the upcoming sessions.

Hoversten said that it's good the City is engaged in preparing the community to be ready to respond in emergency situations. This is a great opportunity to allow the community to connect with great resources and professionals such as the Fire Department staff. Hoversten commended Pederson for getting the program started.

Gillispie commented that the AED machines are not inexpensive. She asked if there are grants for businesses to purchase AED machines. Pederson stated that public use AEDs range from \$1500-\$2000 each. Pederson has looked for grant money and the only money that he found was from the Orono Rotary and that was for the heart safe program, not for businesses to purchase AEDs. The Minnetrista crime fund will also donate money to the heart safe program. Pederson says it is a challenge getting AEDs out in the community.

Pederson stated getting the basic training out there for people to perform compression-only CPR until the AED arrives is crucial.

Mayor Wegscheid mentioned the Sr. Perspective Magazine, who did an article on the Westonka Historical Society.

Hoversten reminded the Council of upcoming meetings:

March 28 - He noted a potential quorum notice will be posted for the bias and sensitivity training meeting.

April 12 - A photographer will be at the Council meeting for the official Council photo.

13. Adjourn

MOTION by Gesch, seconded by Gillispie, to adjourn at 8:46 p.m. All voted in favor. Motion carried.

Mayor Mark Wegscheid

Attest: Catherine Pausche, Clerk