

MOUND CITY COUNCIL MINUTES
April 8, 2014

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, April 8, 2014, at 7:00 p.m. in the council chambers of the Centennial Building.

Members present: Mayor Mark Hanus; Council members Mark Wegscheid, Heidi Gesch, Kelli Gillispie and Ray Salazar

Members absent: None

Others present: City Manager Kandis Hanson, Fin Dir/Clerk/Treasurer Catherine Pausche, Community Development Director Sarah Smith, City Attorney Melissa Manderschied, Mike Wocken, Paul Boyum, Stephani Boyum, Cliff Simon, Curt Nelson, Allison Sisk, Nick Bellony

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

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

4. Consent agenda

Gillispie requested the removal of item 4C as she wishes to discuss this item.

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

- A. Approve payment of claims in the amount of \$219,301.95
- B. Approve minutes of the March 25, 2014 regular meeting.
- C. Removed.
- D. Approve 1-4 Day Temporary On-Sale Liquor License for Our Lady of the Lake Catholic Church for The Blast Block Party on May 17, 2014 with fees paid.
- E. Approve Public Gathering Permit for the Red Ribbon Ride bike tour for July 20, 2014 with fees paid.
- F. Approve Pay Request No. 1 by Michels Corporation in the amount of \$228,375.50 for work completed on the 2013 Sanitary Sewer Rehabilitation Project, City Project No. PW-13-06.

G. **ORDINANCE NO. 04-2014: ORDINANCE AMENDING CHAPTER 62 OF THE MOUND CITY CODE AS IT RELATES TO STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES**

H. **RESOLUTION NO. 14-23: RESOLUTION AUTHORIZING PUBLICATION OF AN ORDINANCE BY TITLE AND SUMMARY**

4C. Approve Spirit of the Lakes Festival Permits for July 17-20, 2014 with fees waived.

1. Public Gathering Permit
2. Parade Permit
3. Public Dance/Live Music Permit
4. Seasonal Banner and Portable Sign Permit
5. 1-4 Day Temporary On-Sale Liquor License

Councilmember Gillispie asked for this item to be removed because she would like an explanation of why fees are waived for this event and not others. Mayor Hanus stated the fees have always been waived for this event and that the fees are waived because this is a city sanctioned event and the others are not.

MOTION by Salazar, second by Hanus, to approve Spirit of the Lakes Festival Permits for July 17-20, 2014 with fees waived. All voted in favor. Motion carried.

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

None were offered.

6. Kandis Hanson, City Manager, requesting discussion/action on proposed agreement between the cities of Spring Park and Mound regarding the provision of nuisance enforcement services.

Hanson stated that Spring Park has requested to contract for Community Service Officer services for nuisance abatement.

Mayor Hanus asked CSO Mike Wocken how much time he thinks will be spent on Spring Park. Wocken stated the priority will be Mound and he has requested a top 10 list from Spring Park. He does not foresee that it will be a large commitment. There is one large issue that may take time initially, but that is an exception.

Hanus noted there are blanks in the effective dates and Hanson said that will be completed by Spring Park. Attorney Manderschied noted it is subject to annual review by both parties.

MOTION by Salazar, seconded by Gesch, to approve the draft agreement between the cities of Spring Park and Mound regarding the provision of nuisance enforcement services. All voted in favor. Motion carried.

7. Sara Smith, Community Development Director, requesting discussion/action on a Resolution Approving Conditional Use permit (CUP) application from Stephani Boyum for a Class III Liquor Service Restaurant, as defined by City Code Sec 129-2, at 2544 Commerce Boulevard to be called Cattails Kitchen N Cocktails (PC Case No. 13-32)

Sarah Smith stated an updated resolution has been included in the packet based on the discussion at the March 12, 2014 regular council meeting.

Gesch referred to page 671, number 21, and asked if this is necessary for the CUP and isn't this language part of the liquor license code. Discussion ensued and it was determined to leave number 21 out.

MOTION by Gesch, seconded by Wegscheid, to adopt the following resolution, as amended striking number 21. All voted in favor. Motion carried.

RESOLUTION NO. 14-24: RESOLUTION APPROVING CONDITIONAL USE PERMIT (CUP) APPLICATION FROM STEPHANI BOYUM FOR A CLASS III LIQUOR SERVICE RESTAURANT, AS DEFINED BY CITY CODE SEC 129-2 AT 2544 COMMERCE BOULEVARD TO BE CALLED CATTAILS KITCHEN N COCKTAILS – PC CASE NO. 13-32

8. Sara Smith, Community Development Director, requesting discussion/action on Board of Zoning and Appeals request from Allison Sisk regarding the keeping of alpacas at 6621 Westedge Boulevard.

Smith stated a request for appeal using the Board of Adjustment and Appeals process is being used because of the potential impacts on residential zoning and land use. Smith stated this option is used when the applicant would like a staff decision reviewed by the Planning Commission and City Council. The appeal request was submitted on or around December 28, 2013 in response to a Staff ruling that alpacas are not allowed per Chapter 14 of the City Code. This is being treated as a Land Use appeal and the 60 day extension is applicable. Staff invoked the 60 day extension and the Council needs to make a decision by April 27, 2014.

Smith stated the property consists of two parcels and is approximately 57,000 square feet and that the applicant has four male Alpacas that she considers pets. Smith provided relevant research and pointed out sections 14.2 and 14.9 of the Mound City Code that state that certain animals were grandfathered in as of 5/19/60. Smith referenced applicable Minnesota State Statutes and pointed out that Section 178.03 is silent on alpacas. Smith stated that Mound City Code requires a commercial kennel license if there are more than 3 cats or dogs on any one premises.

Staff does not find the keeping of alpacas permitted anywhere in the code in any of the districts. The Planning Commission agreed with Staff's finding. However, they recommended the Council consider a code change to allow this type of animal to be treated similar to a dog or cat in whatever district it is deemed appropriate.

Smith stated as part of the appeal process the City Council must determine if Staff's review and evaluation was consistent with the City Code. Smith stated no resolution was prepared in advance and one will be brought back to the next meeting to meet the deadline. Smith stated animal control is managed by the CSO and he is present in the audience if there are questions.

Hanus stated that Council needs to take two actions. First is to concur or object to Staff's assessment that alpacas are not allowed by the City Code. Secondly, the Council must decide on whether to approve or deny the appeal.

Hanus stated he researched multiple hours on the internet and most information is about the business of fleece and to some extent meat. Hanus was trying to determine if alpacas are farm animals or a pet, which is more of an issue of use, and the area needed to raise them. Hanus said the information was inconsistent about how large the animals grow and how much area is required for pasture. Hanus couldn't find any area cities that allow them. Hanus referenced Minnesota State Statute Rule 6100.0500 which defined alpacas as a horse, which is expressly not allowed in the code. Hanus stated that alpacas are part of the llama family in state law and

that alpacas were brought to the US in the 1980's so there is not a lot of information on them. Hanus referred to page 682 where the applicant claims they are considered exotic pets, but Hanus found no support for it. Hanus stated raccoons and bears could be considered exotic pets, but they are not necessarily domesticated. Hanus said the Council can't consider just this case, but must consider it city wide, and that it would impact many areas of the City Code including zoning, fencing, electrical, building, and setbacks. Hanus stated this is not a simple solution and felt the Planning Commission should have been more specific in the recommendations if they support allowing them (minimum lot size, setbacks, etc.).

Ally Sisk, 6221 Westedge Boulevard, stated she never sold an alpaca and that they are all males. Hanus said he read that most that become pets are rejects from the breeders. Salazar stated the profit potential is strong from the wool. Salazar said caution must be used in classifying any mammal as a pet. Salazar stated Mound is not a farming community. Sisk stated some of the exotic pets Salazar mentioned are specifically prohibited in state law.

Sisk stated they have a split rail cedar fence reinforced with invisible/clear wire netting. Hanus referenced Frequently Asked Questions (FAQ) regarding alpacas as pets. Hanus pointed out that they are herd animals and that multiple are required. Mound currently limits dogs and cats to three per household. Wegscheid said the Planning Commission was confused as to whether the limit was three dogs and three cats or a total of three of either. Hanus said it is the total of dogs/cats combined.

Gesch asked the age. A year or younger and Sisk stated that they can live up to 15 - 20 years. Sisk stated they are considered to be fully grown and were chosen for petite size. They are 60 to 90 pounds each. Sisk stated her Great Dane weighs 160 pounds.

Gillispie stated Wikipedia classified alpacas as a domesticated animal and that she finds it very confusing. Wegscheid said the state language defined livestock as animals intended for slaughter. Hanus clarified that the language was "horses intended for slaughter."

Gesch said she does not feel the City Code addresses alpacas and that the applicant made a very good case that they should not be lumped in with horses. Gesch said she does not feel that Mound is a conducive place for alpacas.

Hanus said there is no way to list every animal and that generalizations are necessary. Hanus asked the Council to first decide whether this is addressed in the code. Hanson stated Staff and the Planning Commission have decided that alpacas are not allowed per Sec 14-2 because it is not listed, and in his opinion, because it is very much like a farm animal.

Hanson offered two anecdotal examples. Two goats were kept on the City Manager's block and were confiscated because they are specifically not allowed. A year ago, someone wanted to raise a family of ducklings and Staff considered them like chickens and ruled that if it is not specifically mentioned, it is not allowed.

Sisk asked if that needs to be stated in the City Code, otherwise why can't the public assume, if silent, it is allowed. The Mayor said if someone is in doubt, the City should be contacted. Hanson added the City relies heavily on past practice.

Hanus said Mound is a suburb and the issue of urban agriculture is treated differently by different cities. Sisk stated the City of Orono and Minnetrista allow them, but Hanus said those

cities are rural and farming communities. Gillispie said she does not consider Mound a suburb. Gillispie says it should be made clearer in the Code of what is allowed.

Hanus asked the City Attorney what is typical for when the code is silent. Manderschied said since it is impossible to incorporate everything, there is typically language such as “except” or “or other animals”, but also that is why there is the Board of Appeals provision.

Hanus poled the Council to see if they concur with Staff and Planning Commission that they are not allowed under the code. Salazar and Hanus said “yes”, Gillispie said “no,” and Gesch and Wegscheid said they see the need for language that states if the code is silent, then assume it is not allowed. Hanus said that is not practical. Hanson said Staff uses the “same and similar” standard often since new terminology like “assisted living” hasn’t been written specifically in the code.

Salazar said it is a stretch to say that since they aren’t listed then they are legal. Salazar said there was an obligation to make a call. Interpretation is up to the governing body and not the applicants. Sisk said she would have made the same arguments whether she bought them or not. Salazar said grandfathering them in opens up the floodgates of others seeking the same exception.

Hanus stated many alpaca owners choose to board them at alpaca farms.

Wegscheid said he agrees there was an obligation to ensure they were permitted. Gillispie stated that according to the Code, domesticated animals are permitted. Hanus said cows are domesticated as well. Hanus said that it may need to be clarified, but that the Council needs to decide whether or not the City Code, as it is currently written, allows them. Gesch said the precedent does need to be considered. Hanus asked if it would help to decide if alpacas were more like dogs and cats or sheep and horses. Hanus said this is where the City Council is considered a quasi-judicial body and has to act as judges of the City Code.

Hanus said it is up to the City Council to decide what group these animals should be considered in, permitted or not. Salazar said you need to look at it from a high level and that the code could not possibly cover every circumstance and judgments have to be made. Salazar agreed that the code language could be tightened up.

MOTION by Hanus, seconded by Salazar, to concur with Staff and the Planning Commission that alpacas are not currently permitted under the City Code. Manderschied clarified that the Council should consider both Chapter 14 Animals and also the R1 zoning as it pertains to what districts should be considered. Hanus stated he is talking about any zone. The following voted in favor: Hanus, Salazar, and Wegscheid. The following voted against: Gillispie and Gesch. The following abstained: None. Motion carried.

MOTION by Hanus seconded by Salazar to reconsider the last motion so it could be restated. All voted in favor. Motion carried.

MOTION by Hanus, seconded by Salazar, to direct staff to prepare a resolution denying the appeal on the issue of alpacas being permitted by the current City Code with the reasons being documented/drawn from the minutes. The following voted in favor: Hanus, Salazar, and Wegscheid. The following voted against: Gillispie and Gesch. The following abstained: none. Motion carried.

Hanus stated the second action is to decide whether or not alpacas should be allowed. Hanus said a vast majority of sources referred to them as farm animals and that this is not judging whether or not they make a good or bad pet. It is a matter of if that activity is a good fit for Mound which is a fully built city with small lots. Hanson stated there is an alpaca business headquartered in Mound but they are boarded outside of the city. Wegscheid said he tried to compare to other pets, like the applicant's Great Dane. Wegscheid said these alpacas are smaller than some dogs and produce less waste. Wegscheid said he would be open to allowing them with restrictions.

Gillispie asked the CSO to explain the complaints that have been received. CSO Mike Wocken said a realtor that had two properties for sale in the area called to express a concern. The realtor was made aware of it from a neighbor, so the "complaint" was somewhat second hand. Smith said she received a call on it as well.

Gesch doesn't like the way the code is written but does not feel they should be allowed in Mound. Salazar does not believe they should be allowed. Salazar commented that allowing with restrictions makes for more work and enforcement issues. The alpacas must be sheered at least once a year so it would be difficult to discern whether it is for profit or not. Salazar said current neighbor's approval should not be considered since they can move and the approval can change. What happens when people with smaller lots want them or some other species.

Gillispie said she agrees that the size of Mound lots and staff time on enforcement should be considered. Gillispie asked what the minimum recommended number should be kept since they are herd animals. Sisk said two is common and that she knows many people in Minnesota that have them as pets.

MOTION by Salazar, seconded by Hanus, to direct staff to amend the animal ordinance to specifically prohibit alpacas in the City of Mound. Discussion ensued to clarify what the motion was requiring. Hanus said the motion was specific as to what Staff should do, but that when it comes back, additional changes could be proposed on alpacas or other animals. The following voted in favor: Hanus, Gesch and Salazar. The following voted against: Wegscheid. The following abstained: Gillispie. Motion carried.

9. Information/Miscellaneous

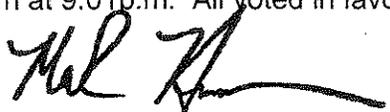
- A. Comments/reports from Council members/City Manager:
- B. Minutes: Docks & Commons Commission – November 21, 2013
Parks & Open Spaces Commission – December 12, 2013
- C. Reports: Hennepin County Assessor 2014 Mound Sales Book
Hennepin County Sheriff's 2013 Annual Report
- D. Correspondence: Hennepin County on Seasonal/Non-Homestead Property Owners
Note from Chief Farniok on marijuana forum

10. Adjourn

MOTION by Salazar, seconded by Wegscheid, to adjourn at 9:01p.m. All voted in favor. Motion carried.



Attest: Catherine Pausche, Clerk



Mayor Mark Hanus