

MOUND CITY COUNCIL MINUTES
July 09, 2019

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, July 09, 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, Field Officer Andy Drilling, Elizabeth Hustad, Ruth Tripp, Jim Kruse

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

Larson asked for item 4A and Bergquist asked for item 4C to be removed from the consent agenda for discussion.

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

4. Consent agenda

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

- A. Removed
- B. Approve minutes from 06-25-19 regular meeting
- C. Removed

4A (Removed) Approve payment of claims \$241,490.04

Council Member Larson questioned the payment to Ray's Tree Services for \$600 on June 8th and asked the protocol for fallen trees that are blocking road access as she alerted the City on the Saturday and cones were placed, but the tree was not removed until the following Monday. Larson noted safety concerns as kids were riding bikes through the trees and questioned why the City was not able to respond sooner.

City Manager Hoversten said Staff missed the mark on this one as it was fully across the street. Staff thought there was an alternate route to avoid the tree in order to not incur additional costs for response on a weekend.

Larson asked what should she have told the caller and who on staff should she have called. Larson asked if it would have been cheaper for the public works department to have done it themselves.

Mayor Salazar suggested the Council Members call the City Manager to honor the chain of command and that he would like to know as well.

MOTION by Larson, seconded by Velsor, to approve claims in the amount of \$241,490.04. Upon role call vote, all voted in favor. Motion carried.

4C. (Removed) Approve a resolution approving Musical Concert Permit for Private Event being held at 3038 Julia Way on Sunday, July 14, 2019

Bergquist said at last year's event there were some parking issues, so he recommended a condition that parking must adhere to City parking restrictions.

MOTION to approve Bergquist, seconded by Velsor, to approve the following resolution with the added condition that they must adhere to the parking restrictions posted locally. All voted in favor. Motion carried.

RESOLUTION NO. 19-45: RESOLUTION APPROVING MUSICAL CONCERT PERMIT FOR PRIVATE EVENT BEING HELD AT 3038 JULIA WAY ON SUNDAY, JULY 14, 2019

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

Jim Kruse, 2830 Pine Road, has concerns about 2867 Westedge Road that was sold by Hennepin County a few years ago. He said that as the abutting property owner he said he would buy it and give it back to the City in the 1990s. Kruse said he has lived there since 1982 and that the lot was part of an old city dump which has caused debris and water issues. Kruse said he contacted the city two years ago and sent an email to the City Manager last year with a video showing run off. Kruse said he also has concerns if building permits are issued, what will be the impact on water flows. Kruse said the new owner has had a crew cutting trees down and questions whether they have a current survey on the property.

Kruse said that in the 90's the county wanted \$90K and he did not want to pay that much. Kruse mentioned a neighbor built a retaining wall which complicates water flow and a neighbor flooded in 1986. Salazar mentioned that was a year of torrential flooding with 26 inches of rain.

Kruse asked if any investigation has been required to ensure the lot is clean or whether new fill has to be brought in. Kruse said he talked to the owner who bought it from the County and when they saw there were issues, they sold it to another party.

Kruse said his issue is the easement area being improved and whether the soil is safe. Kruse said he still gets glass bottles surfacing from the old city dump and that run off is an issue. Kruse also said that 5 years ago the catch basin on Halstead was redone and it helped, but it sank again and needs to be looked at.

Hoversten said Staff can be directed to bring back more information but that he knows an easement over land for sewer pipe runs down that slope. Hoversen said as part of the Westedge Project, water flows were closely evaluated as well as some smaller projects for catch basins were done in 2013.

Hoversten said he recalled discussing the tree canopy's impact on ground cover. Hoversten said the City had no reason to object to the lot being sold and that the new owner has expressed the desire to build a new single family home but noted no permits have been received. Hoversten said the new owner got the MN Pollution Control Agency (MPCA) to remove the note on the title to make it buildable.

Kruse said the City of Mound needs assurances that the soils are safe and to understand why the MPCA was willing to remove the title restriction. Salazar said they have the jurisdictional authority. Kruse asked what the procedure is for building permits and said the owner suggested that the builder wants to drive pylons which gravely concerns Kruse. Kruse said due to the proximity to Bruce Miller Park, he already has issues with rodents and does not want the disruption to cause more issues. Kruse wants to know the requirements and Hoversten said the Building Inspector will thoroughly work through the plans if and when received.

6. Mayor Salazar requesting discussion and action on a resolution affirming continued inclusion of the Pledge of Allegiance on City Council agendas

Mayor Salazar requested that Red Skelton's interpretive performance of the Pledge of Allegiance to be played on YouTube for the audience.

<https://www.youtube.com/watch?v=2HGHdFmu5GU&feature=youtu.be>

Mayor Salazar hoped all would agree our pledge is open to everyone and that he thinks it would be a disgrace and disrespectful not to recite the Pledge of Allegiance before the meetings. All Council Members agreed.

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

RESOLUTION NO. 19-46: RESOLUTION AFFIRMING CONTINUED INCLUSION OF THE PLEDGE OF ALLEGIANCE ON CITY COUNCIL AGENDAS

7. City Engineer Brian Simmons requesting discussion of bid results for 2019 street and utility systems improvements under single contract bundle

Simmons said alternates were provided to give the vendor an option for trenchless, but no one bid on it. The two bids received were over 30% of the engineer's estimate. Upon further bid analysis using an apples to apples basis, staff recommends retooling the projects and rejecting the bids received. Simmons said the request is to provide direction to staff and vote on the resolution regarding the 429 project. Simmons said some contractors require subcontractors for different kinds of trenchless work and suggests rebidding three smaller projects that are spread out starting in the fall and allow for some winter-friendly work when the contractors are less busy. Simmons noted the wet weather has delayed existing projects and created a less favorable bidding environment.

Salazar asked by separating/retooling into three smaller projects, will the total cost still be more than the engineer's estimate. Simmons said the administrative costs will be higher, but the total should be much closer to the engineer's estimate. Simmons said in 2015 the same approach was used when the initial bids were 15% higher than the estimate. Simmons said both bids received were close in range indicating that this is where the market is at in this environment. Simmons said the County is experiencing similar results with their bids, but noted it was good to see contractor interest.

Bergquist said in the past bundling has been pushed. Simmons acknowledged the environment has changed. Bergquist asked if Sherwood plans are the same. Simmons said yes, and that the Commerce watermain was the biggest variance. Simmons said Sherwood needs to be bid and award within 12 months of approving the project, which still gives enough time, but a more relaxed construction timeline should make it more attractive to bidders.

Pugh asked if we understand the competitive environment we are dealing with. Simmons said the early bid season is January/February, the typical is February/March/April, so this came late. Simmons said fuel prices can impact bids and labor costs will continue to become more of an issue, but by giving flexibility and bidding pre-January, contractors will be able to eliminate some risk. Simmons said specialty work could be moved from trenchless to open cut as alternate which has additional impacts, but could result in lower overall cost depending on availability.

Simmons said the objective is to get the construction costs under the estimated assessment amount but that it will need to be revisited prior to the bid award.

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

RESOLUTION NO. 19-47: RESOLUTION REJECTING BIDS FOR THE 2019 STREET & UTILITY PROJECT - SHERWOOD DRIVE, CITY PROJECT NO. PW-19-01

MOTION by Bergquist, seconded by Velsor, to redirect staff to rebid the projects based on the specified conclusions in the staff memo (A-E) as individual projects and communicate the status to Sherwood Drive residents. All voted in favor. Motion carried.

8. Planning Commission Recommendation

a. *Consideration / action regarding exterior storage / nuisance / parking regulations, including possible amendments to Mound City Code and overview of enforcement process and activities*

Smith summarized the information contained in the existing code regarding exterior storage and the following changes that were discussed by the Planning Commission to reduce site intensity and improve neighborhood appearance:

1. Prohibit all dropped or detached trailer parking on City roads and streets year round – Planning Commission suggested timeline for temporary authorization be included – Staff suggested not to allow at all during winter but perhaps 48 hours in warmer months.
2. Reduce the number of exterior storage items that can be parked on a developed property. At present, the code currently allows 1 unit for 1500 square feet with a maximum of 6 units – Planning Commission suggested 1 per 2000 SF.

3. Reduce or prohibit exterior storage item parking on undeveloped lots. Current regulations allow 1 unit for 3000 square feet up to a maximum of 6 – suggestion is to prohibit completely unless it abuts a developed lot and is tax combined with the developed lot.
4. Amend the exterior storage regulations to require that vehicles have current licensing – upon further analysis the City can't enforce current registration on private property, just on the public streets
5. Planning Commission suggested restricting parking in City owned lots, including those that are undeveloped, overgrown, etc. – Staff supports this suggestion.
6. Pursue future review and study of front yard parking to consider requiring exterior storage items to be parked on an improved hard surface.
7. Prepare amendments to regulate ice shelter use similar to recreational vehicles and utility trailers (City Code Section 129-314 (g) instead of treating as independent dwelling units.

Smith said the goal of enforcement is to produce a procedure that is easy to follow and understand to facilitate timely resolution of matters/violations. Smith said Staff would like input/direction from the Council on unresolved enforcement matters and suggested a 4 prong approach as outlined in the packet. Smith said Staff just wants responsiveness, and if there isn't any, then the possible outcomes are clearly stated and what the potential remedies are – including civil legal action for ability to abate or prosecution. Smith said sometimes the most difficult to resolve seem like they should be the easiest, including smaller projects where contractors aren't responsive.

Smith said what is a reasonable time period to comply needs to be demonstrated and documented in case it ends up in court or legal action. Smith said exterior storage issues are the primary nuisance complaint and that having understandable requirements and timelines will help. Smith said the Planning Commission also suggested a community input component while requirements are being developed to ensure a smooth process. Smith noted the short term rental discussion was a good example of hearing from all sides of an issue.

Smith noted any amendment to the zoning ordinance requires a public hearing and that other ordinance changes have different notification requirements. Smith said the goal today is to receive direction from the Council on how to proceed.

Mayor Salazar asked if the language starting on Page 1357 of the packet is the present code and Drilling said yes. Salazar clarified that Page 1355 are the suggestions and indicated he has a concern about the 1 per 2000 SF due to the small lots in Mound. Salazar said he prefers 1 per 1500 SF with 6 as a hard maximum. Salazar says he thinks the quantity is less of a concern as the quality. Drilling said the exterior storage is just what can be seen from the driveway unless neighbors complain. Hoversten cautioned about infusing what can be considered taste as to what is an old boat or fish house. Hoversten said the code has attempted to define what is considered junk. Hoversten said you can't write into code what is unenforceable in the courts because it sets an unrealistic expectation for the community. Hoversten said quantity is easy to regulate, whereas quality is not. Salazar said he understands and prefers the 1500 SF. Salazar asked to clarify the vehicle registration requirements. Hoversten said the City can't enforce expired registration on private property.

Salazar asked about City owned lots. Drilling said neighbors encroach with storage items, junk, dumping, and he feels the code is silent from an enforcement perspective.

Pugh asked about recreational vehicles stored right on the curb line with no setback. Drilling said it is only an issue if it is in the site line of the curb or corner.

Velsor asked about page #3 on page 1355 regarding a vacant lot abutting a developed lot. Velsor said a lot across the street should not qualify, but Smith said as long as it could be taxed combined under the same PID so it is one lot that is considered developed, it would qualify. Hoversten said once combined, it is hard to separate unless the parcel meets the new lot requirements. Velsor asked about the marina lot in question by Edgewater and Smith said it is a separate undeveloped lot.

Velsor asked about inoperable vehicles, even if they are stored under a tarp. Hoversten said a junked vehicle is easier to get removed by charging as a misdemeanor (page 1354 Step D) vs. treating as a nuisance. Hoversten said that is why keeping this option is recommended vs. strictly the administrative procedure. Hoversten said Staff tried to clearly define the procedural steps so that expectations are known and there is proper documentation if legal action is taken. Hoversten noted a misdemeanor is a criminal charge, not a civil charge.

Hoversten said it is Staff's intent that the Council would be consulted prior to taking any judicial action.

Bergquist noted that boat lift and dock sections are not currently included in the list of exterior storage items listed on page 1357 (b). Hoversten recommended those be added and any other accessories.

Velsor said he suggests bumping it to 2000 based on his experience on the Planning Commission and that he does not feel cars in and out of the driveway are going to spur complaints. Velsor said leaving at 1500 does not seem to be working as he is hearing people want more teeth.

Salazar said he thought #3 and #4 are fine and agreed with #5 requiring driveway storage in front yard.

Salazar asked the Council's opinion on 1 per 1500 or 2000 SF. Bergquist said although he struggles with it, he understands why it is being proposed. Pugh said she agrees with 2000. Larson said she is undecided because she knows we live in a recreational area and one could easily have two boats and jet ski trailer. Salazar said he struggles with it because it does not say cars that are frequently moved don't count. Hoversten said language could be added to address 4 drivers and 4 cars that move frequently, but cautioned that when you try to create leniency for the reasonable it can be abused in some situations.

Drilling clarified that since the max is likely to stay at 6, it will just reduce some lots by 1 storage unit. Salazar said he is concerned about vehicles that are used. Velsor said that is what the hearing process/Step B is for where people have to defend their use in front of Council. Salazar said that subjects them to interpretation by whatever Council is in office. Velsor said that Salazar asked for no strict enforcement without review.

Pugh asked what Field Officer Drilling is seeing in the community. Drilling said that 5% of people are 95% of problem. Drilling told a story of an inherited vehicle that the family did not know what to do with it and that the push helped them make a decision. Drilling said that if they wanted to keep it, they needed to demonstrate it is operable, that it can run under its own power, can move, etc.

Larson asked about boat trailer, fish house, and car and questioned where are sheds mentioned. Drilling said that sheds are an accessory structure and not an exterior storage unit and that sheds more than 200 SF require a building permit to erect but that there is no restriction on size. Larson said she has a small house on a large lot and questioned whether the requirements should be different for large houses that take up a lot of the lot.

Larson asked the frequency of reported nuisances. Drilling said 93 nuisances have been reported YTD and are at various stages of resolution, but clarified he can only write warnings. Hoversten said storage is hardest to enforce because abatement action requires access. Hoversten said others relate to property condition. Hoversten said some would have been referred to the building official or tall grass is abated. Larson asked of the 93 how many related to storage, and Drilling said less than 25%. Larson said she keeps going back to the recreational nature of the area, so she likes the existing 1500 with a max of 6 regardless of lot size.

Velsor said this is just an attempt to give teeth and he does not think boats and jet skis are going to cause complaints. Drilling said it is basically when there is too much stuff unmaintained and inoperable.

Hoversten said he senses there is a clear desire to distinguish between motorized capability vs. inoperable. Hoversten said it would be good to get additional input and information and that Staff received valuable input from tonight's discussion.

9. **Councilmember Bergquist requesting discussion regarding consideration of an ordinance regulating tobacco use in Mound and assuming licensing authority for tobacco sales from Hennepin County**

Bergquist said he felt it is the Council's duty to look at both sides of issue, so putting health benefits aside, he feels the law needs to change at state level in order to not disadvantage local business. Bergquist noted that most businesses agree with Tobacco 21, but just want it on an even keel, and stated he does not smoke or own a business.

Salazar acknowledged tobacco is unhealthy and that tobacco companies are doing everything they can to attract customers at a younger age, but stated it won't stop people from crossing the street or going down the road. Salazar said he could go either way and that the law has been 18 for years and 18 is an adult and can go to war. Salazar said it is a feel good thing but if we are the only one to make it 21 they are just going to go across the street.

Larson said she hates cigarettes, including the smell and litter, but to her it is more terrifying to have government tell us what we should do with our health. Larson said if they are old enough to serve in military they are responsible enough to make decisions on their health. Larson said she heard obesity rivals' tobacco for cause of cancer and questioned if government is going to tackle sugar next. Larson said we should take over regulating tobacco sales from Hennepin County.

Hoversten said because we don't have a tobacco ordinance the County rules dictate and they do the licensing, surveillance and enforcement. Larson thinks it is parents job to educate children, not for government to mandate. Salazar said the Orono Mayor said he is going to follow state law.

Discussion ensued on taxes on supersized drinks. Velsor said he doesn't have opinion either way but just wants to know who foots the bill. Hoversten said there would be a licensing fee commensurate of our administrative costs.

Pugh says she is against the tobacco industry for creating an addictive drug and that although people have rights, she is not going to support an industry that has formed an addictive drug.

MOTION by Bergquist, seconded by Larson, to direct staff to develop an ordinance providing for the licensing, surveillance and enforcement of tobacco sales. The following voted in favor: Larson, Salazar, Velsor, Bergquist. The following voted against: Pugh. The following abstained: None. Motion carried.

8. Information/Miscellaneous

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

City Manager Hoversten highlighted the following dates/activities:

July 19 & 20 - Spirit of the Lakes Festival with precursor activities on Thursday
July 25 – 28 - Performing Arts Center – Music Man – first major local production
September 3 - Westonka Public Schools start

Velsor asked about there being no marked cross walk by Chester Park to redirect people from the muddy area and suggested a sidewalk area be added so they don't congregate in the street.

Hoversten said quotes should be forthcoming for Swenson Park tennis courts in time for meeting on July 23rd.

Pugh stated Dean Phillips held a townhall at Gillespie Center and that it drew an oversized crowd.

B. Reports: Liquor Store – June 2019

C. Minutes: 03-14-19 Parks and Open Spaces Commission
 05-09-19 Parks and Open Spaces Commission

D. Correspondence:

9. Adjourn

MOTION made by Velsor, seconded by Bergquist, to adjourn at 9:56 p.m. All voted in favor. Motion carried.

Mayor Raymond J. Salazar

Attest: Catherine Pausche, Clerk