

MOUND CITY COUNCIL MINUTES
January 13, 2015

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, January 13, 2015, at 7:00 p.m. in the council chambers of the Centennial Building.

Members present: Outgoing Mayor Mark Hanus; Mayor Elect Mark Wegscheid, Council Members Heidi Gesch, Ray Salazar, Kelli Gillispie, and Jennifer Peterson
Members absent: None.

Others present: City Manager Kandis Hanson, Community Development Director Sarah Smith, Finance Director/Clerk/Treasurer Catherine Pausche, City Attorney Melissa Manderschied, Margot Anderson, Mitchell Spanjers, Katie Morford, Linda Johnson, Nellie Hysjulien, Milt Hysjulien, John Beise, Kristin Beise, Matthew Sheehan, Tyler Hanratty, Luke Shavlik, Alex Carter, Blake Rosenberg, Cameron Breezly, Rachel Lee, Samantha Owens, Vanessa Owens, Noah Baker, Mark Saliterman, Mark Lee, Nick Qualle, Todd Corneya

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 Hanus called the meeting to order at 7:05 p.m.

2. Oaths of Office

City Manager Hanson swore in Mayor Wegscheid and Outgoing Mayor Hanus passed the gavel to Mayor Wegscheid while making some remarks. Hanson swore in Council Members Gillispie and Peterson.

3. Pledge of Allegiance

4. Approve agenda

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

5. 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 \$677,528.27

B. RESOLUTION NO. 15-01: RESOLUTION APPOINTING HEIDI GESCH AS ACTING MAYOR FOR 2015

C. RESOLUTION NO. 15-02: RESOLUTION APPOINTING CITY COUNCIL MEMBERS AS REPRESENTATIVES OF THE CITY COUNCIL TO COMMISSIONS AND COMMITTEES FOR 2015

D. RESOLUTION NO. 15-03: RESOLUTION APPOINTING FINANCE

DIRECTOR/CLERK/TREASURER CATHERINE PAUSCHE AS ACTING CITY MANAGER FOR 2015

- E. **RESOLUTION NO. 15-04: RESOLUTION APPOINTING FIELD OFFICER STEWART SIMON AS ASSISTANT WEED INSPECTOR FOR 2015**
 - F. **RESOLUTION NO. 15-05: RESOLUTION APPROVING THE PURCHASE OF AT LEAST A \$20,000 BOND FOR THE CITY FINANCE DIRECTOR/ CLERK/TREASURER**
 - G. **RESOLUTION NO. 15-06: RESOLUTION DESIGNATING THE OFFICIAL DEPOSITORIES FOR 2015**
 - H. **RESOLUTION NO. 15-07: RESOLUTION DESIGNATING THE LAKER AS THE OFFICIAL NEWSPAPER FOR 2015**
 - I. Approve request for commercial kennel license for Mound Emergency Management Division, waiving the fee
 - J. **RESOLUTION NO. 15-08: RESOLUTION MAKING A SELECTION NOT TO WAIVE THE STATUTORY TORT LIMITS FOR LIABILITY INSURANCE PURPOSES**
 - K. Approve Payment of Invoice No. 2 by Advanced Wall Structures, Inc, for Emergency Retaining Wall Replacement at 3025 Island View Drive, in the AMOUNT OF \$10,500.00
 - L. **RESOLUTION NO. 15-09: RESOLUTION ORDERING THE PREPARATION OF ENGINEERING REPORT TO DETERMINE THE FEASIBILITY, ESTIMATED COST AND FUNDING FOR LIFT STATION D2, LYNWOOD BOULEVARD CITY PROJECT NO. PW-15-04**
 - M. Set Joint Special Meeting Workshop of the Mound Planning Commission and City Council, for the purpose of discussing Planning Commission 2015 Work Plan and Projects: Feb 9, 2015, 7:00 pm
 - N. Confirm Open Book meeting by Hennepin County Assessors for May 6, 2015 from 5:00 pm to 7:00pm to be located at the Centennial Building, 5341 Maywood Boulevard, Mound
 - O. Approval of date change for Northwest Tonka Lions Temporary On-Sale Liquor Permit for a Fundraiser at and for The Gillespie Center (TGC) from Jan 31, 2015 to Feb 13, 2015
6. **Comments and suggestions from citizens present on any item not on the agenda.**
None were offered.
7. **Visit by Hennepin County Commissioner Jan Callison**
Callison stated the County levy was reduced by \$4M overall, but there was an increase due to projected labor cost increases and understaffing in some areas like child protection. Callison stated the new 911 dispatch facility in Plymouth has opened and serves the Mound area. Callison stated Ramsey and Hennepin counties are discussing a shared county home school to

replace aging facilities and declining enrollment and also to increase efficiency and effectiveness. Hennepin County is proposing to regulate e-cigarettes just like regular cigarettes and an initial hearing was held with action to follow. Callison stated applications for the Minnehaha Creek Watershed District (MCWD) Hennepin County Representative are being taken and the deadline is February 19, 2015. Callison stated the mosquito control district is a joint powers and 227 acres were treated in Mound 227 for larvae, 6 acres for adult mosquitos, and 22 tires were recycled in 2014. Callison congratulated the newly elected and re-elected officials.

Hanson expressed appreciation for the recent opportunity to provide feedback to the County. Hanson would like to see the City and County coordinate municipal utility projects with county road projects to increase efficiency. Callison asked what is needed from the County and Hanson asked to be consulted in the planning. Hanson expressed concern about the potential to mandate organic recycling and Callison stated the County is responding to a state mandate. Hanson asked why the library in Mound is called the Westonka Public Library and not the Mound Public Library as is the case with most libraries. Callison gave examples of other libraries not named after the host city. Pausche requested the County provide relief for early/absentee voting by managing more of the process and making it less paper intensive.

8. Planning Commission Recommendation(s)

Sarah Smith, Community Development Director, requesting discussion/action
Planning Case No. 14-25, 1975 Lakeside Lane, Applicant: Mark Lee

Smith provided an overview of the requested variance to allow 6 foot side setbacks and hardcover up to 40% for the property versus the requirements for a non-lot of record which includes 10 foot side setbacks and a maximum of 30% hardcover.

Smith provided a history of the site which included a subdivision request by Brenshell Homes previously approved in 2003 that created 2 lots and involved shifting of the lot line to the east. The resolution was recorded and subdivided the property along original lot lines and not the approved/adjusted lot line. Smith noted that the lots of record provisions allow for reduced setbacks and 40 percent hardcover and that a waiver of platting, which is a subdivision along original platted lot lines, allows a property to retain lot of record status. The applicant has requested variance approval to allow for 6 foot side setbacks and 40 percent hardcover. The lot of record regulations that would apply to this lot would allow for one (1) side setback to be six (6) feet and one (1) side setback to be ten (10) feet and hardcover of up to 40%.

Smith noted that at the Planning Commission meeting, Staff recommended granting variance approval to allow the one (1) setback to be six (6) feet and hardcover up to 40 percent as would be allowed for an original lot of record. The Planning Commission recommended granting variance approval to allow both setbacks be (6) six feet and hardcover up to 40%. Smith noted this property is zoned R-1. The R-1 District incorporates many lakeshore properties and has a minimum lot size of 10,000 square feet and allows for one six (6) foot side yard setback and one ten (10) foot side yard setback. Smith noted that that the lot of record provisions for the R -1A and R-2 Districts allows six (6) foot side setbacks and has minimum lot size of 6,000 square feet.

Smith noted the applicant granted the City more time for its decision pursuant to MS 15.99 and the new deadline is on or around March 28, 2015.

Smith noted that when the staff and planning commission are not in agreement it is customary to bring a resolution back to the Council after receiving direction from the City Council. Wegscheid asked if it was an option to get the property line readjusted. Smith said that a new property owner would make it difficult especially if there is a mortgage involved. Manderschied and Smith reviewed and discussed several options but ultimately concluded the variance option was most efficient due to the clear practical difficulty.

Gesch clarified what Staff is recommending versus the applicant. Smith indicated Staff feels it is reasonable to have a six (6) foot and a ten (10) foot setback as would be allowed for a lot of record. Gesch asked if the error was known when the applicant still owned both lots and Smith said the error surfaced during the time the lot was sold and noted the building permit submitted in 2003 was based on the subdivision approved in 2003.

Manderschied indicated the City Code states that the variance granted should be the minimal variance required to provide relief, that the variance should be made while keeping in harmony with the R-1 zone's setbacks and that it should not be materially detrimental to the other owners in the area.

Applicant Mark Lee, 2020 Bellaire Lane, showed a survey from 2/18/2003 that shows the line was moved. Lee stated he is requesting both side setbacks be six (6) feet to help offset the impact of the line not being moved. Salazar asked if the applicant plans to sell or build. The applicant said he is unsure at this point.

Wegscheid stated at the Planning Commission meeting, discussion took place that it was believed to be through no fault of the owner that the error occurred, which is why they determined six (6) foot setbacks on both sides was reasonable. Salazar asked if Lee approached the neighbor and Lee said he does not want to sell. The neighbor's pad is 45 feet wide and the applicant is asking for the six (6) foot setbacks to allow for a 40 foot wide pad for the new house.

Manderschied reiterated the standards for the practical difficulties test and clarified that the privilege test is to not grant something that could not be given to another applicant. Manderschied said it is a policy decision and encouraged the resolution state the unique circumstances that created the practical difficulty, but that she feels it is in the Council's discretion to grant six (6) foot side setbacks.

The applicant stated that there would still be (20) feet between the houses, but Gesch replied that the owner could expand into that area. Gesch stated she wants the resolution to specifically call out the recording error.

Salazar stated, as a matter of good faith and fair dealing, the applicant built the first home assuming the lot lines were recorded properly and since it does not alter the character of the area, he is OK with six (6) foot side setbacks. Wegscheid, Peterson and Gillispie concurred.

MOTION by Salazar, seconded by Gesch, to direct Staff to prepare a resolution that would grant a variance allowing both side yards to have a six (6) foot setback and a maximum of 40% hardcover and referencing the lot line recording error as a key finding in establishing practical difficulty. All voted in favor. Motion carried.

9. Mark Saliterman, developer of The Landings, with a Project Update and request of the City Council

Smith gave some background on the Lost Lake development project and introduced the new builder, Mark Saliterman, who requested time with the Council to discuss the current circumstances and market conditions.

Smith noted a new building code is going into effect January 24, 2015. If plans and permits are received on or before that date, they would be evaluated on existing code. If they are received after, costs and design requirements may change.

Mark Saliterman, Minnetonka resident, Mound landlord, and property owner, wanted to clarify he is the builder and not the developer. Saliterman stated he is here to discuss cost, a revised plan, and proposed changes to the trail access point.

Saliterman stated he has built four townhomes that are currently for sale. Saliterman noted a \$60K cost overrun per unit resulted when the concrete had to be reinforced with steel due to the pilings not being sufficient. In addition, because of the elevation, in-floor heart was added at a cost of \$10K per unit. Saliterman said the listing price ranges from \$525K to 625K.

Saliterman stated the next five adjacent units will not be constructed in the coming year unless the market improves on the first four in the next 5 to 6 months. Saliterman stated at the last meeting with the Council, he agreed to pay fees that he now realizes will be applied to all of the units. While he is ok with the fees on the larger units, he has a concern about absorbing those fees on the seven 1,000 square foot units. Saliterman noted the 7 smaller units will be built on footings and will not incur the additional pilings/concrete cost.

Saliterman requested fee relief because the 7 units should essentially be identical unless some options are exercised. Saliterman hopes the 1,000 square foot units will be in the \$300K to \$350K range and he requested that the some of the permit fees be consolidated or an hourly fee be established. Saliterman said the design has been modified to bring down costs, including changes to the roof slope and interior and exterior details.

Lastly, Saliterman stated the current walkway that allows access to the slips is encouraging people to park on the private road to unload as well as trail pedestrians are using it to access Caribou Coffee. Saliterman suggested the current path be gated and another public path be moved closer to the ball fields and more directly aligned with Caribou Coffee.

Salazar said it does not appear the path location is germane to the discussion. Smith stated she does not believe it is an easement and that relocating the path may be an option.

Salazar asked for clarification on the fees paid and Smith summarized the customary fees for plan review and building permits and the fees that are passed through to other entities, like Met Council.

Nick Qualley stated the master plan option will expire with the new code. It requires the plans have to be identical, although mirror plans are permitted. Plan review is 65% of building permit fee. If there is a master plan, the plan review fee is 25% for all additional units. Hanson suggested customizations perhaps could be done after the shell and qualify as a remodel permit.

Saliterman requested the Council reconsider the original request for a concession of \$2,500 per unit. Although he withdrew the request, he is now asking for a concession on the seven smaller units since the fees seem excessive for 1,000 square foot units. Gillispie said she recalls the initial discussions and projected market values and struggles to reduce fees and transfer the burden to the taxpayer.

Saliterman encouraged lower fees on smaller units to encourage more development of affordable housing. Salazar stated he feels the fees are not excessive and are not punitive as they represent real costs. Salazar said residents are absorbing increases to utility rates and taxes and are even paying on the dump bonds that made this development possible.

Gesch asked to clarify whether the trunk charges are based on value or are the same for all. Smith said they are based on Equivalent Residential Unit (ERU) and are essentially the same. Gesch asked who owns the proposed paths. Saliterman said he owns the land with the existing path, but there is an easement.

Peterson asked how the fees compare to other cities and Pausche described a survey recently conducted by the City of Victoria. Pausche asked Smith if the plan review and building permit fees are value-based and she said yes. Pausche stated the survey showed Mound fees were the lowest in the area for a \$300,000 residence.

Peterson asked what the existing homeowners thought and Saliterman said there is a meeting on Thursday with the Homeowners Association (HOA). Saliterman said he anticipates concerns being raised regarding the design changes that may reduce quality. Peterson asked if there was a requirement to build and Saliterman said no.

Smith asked what the nature of the changes would be and Saliterman said he is considering changes to the architectural features but not the footprint, decking, etc. Smith clarified she needs both the plan design and building permits and said the changes will be reviewed to see the impact on the City approvals and HOA agreement. Smith clarified there is an anticipated architectural design that was part of the City approvals.

Manderschied stated the subdivision agreement had timing requirements of September 1, 2015, for street work, private utilities and landscape. Manderschied asked for clarification of when the 7 smaller units would be built and Saliterman stated the units may start this spring.

Mayor Wegscheid recessed the meeting to change the recording media at 8:58 pm and reconvened the meeting at 9:06 pm.

Wegscheid summarized the consensus was to keep fees where they are at and therefore no action is necessary at this time.

10. Mayor Mark Wegscheid requesting discussion and any necessary action:

- A. City e-mail accounts for Council Members
- B. E-mail protocols when responding to constituents

Mayor Wegscheid proposed that all Council Members have City email accounts and stop using personal email accounts for city related business. Gesch clarified that no emails should be deleted. Pausche provided instructions on how to set up the accounts and said protocols in the form of bullet points will be prepared and distributed.

11. Action closing the meeting under Minnesota Statutes, Section 13D.03, to consider strategies related to labor negotiations under the Public Employment Labor Relations Act, Minnesota Statutes, Chapter 179A

MOTION by Salazar, seconded by Gesch, to close the meeting for the purpose of considering strategies related to labor negotiations as provide under Minnesota Statute, Section 13D.03. All voted in favor. Motion carried.

Mayor Wegscheid closed the meeting and 9:25 pm and reconvened the meeting at 10:07 pm.

12. Information/Miscellaneous

- A. Comments/reports from Council Members
- B. Reports: Harbor Wine & Spirits: YTD Dec 2014
Finance: YTD Nov 2014
Hennepin County newsletter
Orono Police Commission Meeting: Dec 17, 2014
- C. Minutes:
- D. Correspondence: Lake Minnetonka Conservation District: Dec 2014
Mediacom: Dec 12, 2014
Mediacom: Dec 15, 2014

13. Adjourn

MOTION by Gesch, seconded by Gillispie, to adjourn at 10:08 p.m. All voted in favor. Motion carried.

Mayor Mark Wegscheid

Attest: Catherine Pausche, Clerk