

MOUND CITY COUNCIL MINUTES
November 12, 2019

The City Council of the City of Mound, Hennepin County, Minnesota, met in regular session on Tuesday, November 12, 2019 at 7:00 p.m. in the council chambers of the Centennial Building.

Members present: Mayor Ray Salazar, Council Member Jeff Bergquist, Phil Velsor and Paula Larson

Members absent: Sherrie Pugh

Others present: City Manager Eric Hoversten, Director of Finance & Admin Services Catherine Pausche, Community Development Director Sarah Smith, Building Official with the City of Mound Tracy Ryman, Officer Matt Siltala, Planning Consultant Rita Trapp, David Krause, Mary Davis, Givlia Rabello, Rachel Kitt, Leslie Krause, Kaitlyn Gutzke, Tammy Gutzke, Alex Owens, Jack Pharell.

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

Hoversten noted the following changes: a typo on agenda item 4E, the workplace training date should be January 28th and not November 26th, Item F should be removed at the request of the applicant, and a typo on Item 7Aii Planning case is actually 19-05, not 19-06.

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

4. Consent agenda

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

*A. Approve payment of claims in the amount of \$519,732.12.

*B. Approve minutes: 10-22-19 Regular Meeting

*C. **ORDINANCE NO. 01-2019: AN ORDINANCE AMENDING CHAPTER 2 OF THE MOUND CITY CODE AS IT RELATES TO SALARIES OF MAYOR AND COUNCILMEMBERS**

*D. **ORDINANCE NO. 02-2019: AN ORDINANCE AMENDING APPENDIX A. OF THE MOUND CITY CODE AS IT RELATES TO ELECTRIC AND GAS FRANCHISE FEES**

*E. Approve Special Meeting Workshop on ~~November 26th~~ January 28 for Respectful

Workplace Training to take place immediately following the regular City Council meeting

*F REMOVED

*G **RESOLUTION NO. 19-79: RESOLUION APPROVING PUBLIC GATHERING PERMIT AND MUSICAL CONCERT PERMIT FOR 2019 TREE LIGHTING CEREMONY EVENT WITH WAIVED FEES (HARBOR DISTRICT IN DOWNTOWN MOUND ON SAT, NOV 23, 2019)**

*H Approve ADM-010 Policy for Evaluation of Requests to Consider Sale, Release or Conveyance of City-Owned Parcels of Land

*I Approve Pay Request #2 and Final in the amount of \$5,375.44 to Allied Blacktop Co. for the 2019 Seal Coat Project, PW 19-08

5. **Comments and suggestions from citizens present on any item not on the agenda.**
(Limit to 3 minutes per speaker.)

None were offered

Mayor Salazar welcomed students present and requested a volunteer to approach the podium to represent the students, state the class, and teacher.

Jack Pharell 2250 Bayview Place, said they are in Advanced Government or Government with Mr. Kiel.

Salazar asked how class was going. Pharell stated pretty well and that he likes it a lot and thinks Mr. Kiel is a very informative teacher, who has put an emphasis on teaching the functions of government and how it and even local government operates.

6. **Officer Matt Siltala presenting Orono Police Department Activity Report for Mound October 2019.**

Officer Matt Siltala reported that in October there were 157 calls for service, including 3 DWI arrests and 5 arrests for assault.

7. **Planning Commission Recommendations**

Mound Harbor Plat in Mound Harbor District in Downtown Mound
Applicant: City of Mound, Rita Trapp, Planning Consultant for City of Mound

Public Hearings - Review of Major Subdivision-Preliminary Plat Application for Mound Harbor (*Planning Case No. 19-05*) from City of Mound to replat several parcels in the vicinity of the Mound Harbor District in downtown Mound and Vacation Application (*Planning Case No. 19-06*) for right of way, alley, and drainage and utility easements in Mound Harbor plat.

Trapp showed a picture of the Mound Harbor District and explained that the parcels involved in this plat are in red and that it extends farther south beyond the map, with an odd shape park, that includes the Lost Lake canal. Trapp identified the existing conditions on the site and stated the project includes 17 different parcels as well as right of way and easements.

Trapp explained the City's intent in doing a major subdivision and plat is to clean things up from the title work and legal research that has been done to date. Trapp stated there is interest in moving forward with development and a need create the right combination of lots and outlots and as part of the major subdivision, the City also wants to address all of the easements to determine which ones are still necessary.

Trapp explained there were a number of different reasons why the City had easements and now the City would like to vacate those, and clean up everything, to be prepared if and when redevelopment might occur. Trapp stated the site is currently guided in the 2030 Comprehensive Plan as the Pedestrian District and the zoning is primarily B-1 Central Business District.

Trapp pointed out the site is over 14 acres and there are 17 different parcels and right of way, and this is primarily an effort to clean things up. Trapp noted the preliminary plat is presented using best practices for surveys, including identifying a Lot 1 Block 1. Trapp identified the locations of the Outlots A through D, and explained when something is an outlot, it means it can't be developed until it is replatted. Trapp showed a table of how the 14.36 acres is divided among the lots, including a very small 0.12 acre parcel that is located right along Shoreline Boulevard.

Trapp stated the proposed vacations were distributed to the effected agencies and organizations for comments prior to approval. Trapp said the city needs to find that a vacation is in the interest of the public, and for this plat, the public interest is consolidating historically platted properties to make sense of all of the different parcels, easements, rights of way, that are coexisting and on top of each other and with the goal of making it clear to where they all are and who still has interest.

Trapp summarized the results of the Staff/Consultant/Utility/Agency Review, and said that Hennepin County responded favorably to the easement vacations as proposed, and acknowledged that there will be continued discussion when any development occurs on or near Commerce Boulevard as it relates to traffic and access.

Trapp said clarification was sought about the boundaries of the trail ROW by the Hennepin County Regional Rail Authority, which was provided. Trapp said the Metropolitan Council Environmental Services (MCES) requested the plat allow for the maintenance on the operation of their interceptor, which has been incorporated and noted follow-up conversations with MCES have been positive.

Trapp stated conversations with Centerpoint Energy continue because they have utilities that are in various locations, noting positive progress has been made to get the easements where they want, but more details need to be worked out.

Trapp said the biggest task when recording a legal document is to have exact descriptions of the easements, so it's something that is still underway. Trapp said for example Metro Transit had a couple of comments that actually dated back to January of 2019 that were noted by the Planning Commission, but that upon further investigation it turns out Auditors Road is no longer used by Metro Transit.

Trapp stated there is the potential that things could change relative to Auditors Road in the future, but that nothing is planned at this point. Trapp said the City Attorney noted that there is a Conditional Use Permit from the time of the original downtown on a parcel now

owned by the city that will have to be extinguished during the final plat process.

Trapp showed where the different easements are and what is going to happen with them, including ones that are not going to be vacated and will be dedicated in the new plat and ones that will be vacated that were for various ingress and egress, alleys, walls, utilities and right of way that are no longer relevant.

Trapp said the major subdivision-preliminary plat and vacations require a Public Hearing and that Staff and the Planning Commission recommend approval of these. Trapp said two resolutions for consideration are included in the packet that include language that allows the City Attorney to make adjustments as needed to the legal descriptions as details are still being worked out and said she is now free to take questions.

Bergquist asked to clarify location information on Outlot A.

Larson asked Trapp to clarify that this is not set in stone, that if there is a development that comes up that meets with the Mayor's and Council's approval and things need to be adjusted, the lot lines can be moved. Trapp said a new plat will be needed for any development and the lines can be adjusted at that time, noting the benefit of doing this now is there will be only 4 outlots in Lot 1, Block 1, instead of 17 parcels and about as many easements to deal with.

Larson stated she attended the Planning Commission meeting on October 1 and she thought she heard something about a prescriptive easement with Auditor's Road. Trapp answered no, that wouldn't have been something that would have been discussed, but that it is part of this discussion.

Larson said she recalls the original Auditors Road, which she has a photograph of, had a stop sign, and it was a road, but when the new Auditors road went in, the stop sign was removed. Larson said the stop sign just kind of went away and she is wondering if we need to address vacating a road that is treated as a road for over 40 years. Trapp asked if Larson was asking whether or not there is a need to acknowledge the road as right-of-way because it's been in use as a road? Larson agreed. Trapp said because of the fact that it's on City owned property, it hasn't been an issue and the current plan is to vacate a portion of Auditors Road as it's constructed today. Larson noted most roads are on public property or on city property.

Trapp stated most roads are in dedicated right-of-way as a result of plots, but there can be historical roads that just exist and states at the time Auditors Road was done, it was anticipated the area would be platted and all of the dedications would occur at that time, but then redevelopment stalled.

Hoversten asked Larson if the concern is about Auditors Road as it is today or is the concern about the original Auditors Road, noting the surface that previously bared that name appears to have been a road across a city parcel that was platted and subdivided as a parcel, not as dedicated right-of-way. Larson said she just wants to be sure it has been noted in the minutes in case something comes up.

Mayor asked Hoversten to confirm Auditors Road will be maintained up until any development takes place and Hoversten answered yes. Trapp noted it is still a City owned road on City owned property.

Mayor Salazar opened the Public Hearing at 7:23 PM.

David Krause, President of Minnesota Lakes Bank, 2290 Commerce Boulevard, explained that behind Minnesota Lakes Bank is a very small area for parking as well as the drive-up lane and that they use the public parking next to it. Krause said if they lose that public parking area, it will become a very dangerous situation for customers, because right now customers who park in the bank spots can drive forward onto the asphalt and turn out on the road, without needing to back up.

Krause said several months ago Smith came to discuss the area of development that was planning to take place, and were made aware that as a result, the customers would lose the ability to use those public parking stalls. Krause stated it is very important for the Council to be made aware, so in the future, if there is a plan to remove the parking lot, the City would take into consideration that Minnesota Lakes Bank is concerned about their customers and the need for that extra space.

Krause said they have been talking to the Planning Commission and others about the possibility of purchasing a small strip of land, for the benefit of their customers to maintain the ability to drive forward and turn down on the road without needing to drive in reverse.

Krause said Minnesota Lakes Bank is a big supporter of the community and they want to stay here while ensuring customers can safely park and walk into their facility as well as use the drive-up.

Mayor Salazar closed the Public Hearing at 7:27 PM.

A. Requested Actions:

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

RESOLUTION NO. 19-80. RESOLUTION TO APPROVE VACATIONS IN MOUND HARBOR DISTRICT PLANNING CASE NO. 19-05

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

RESOLUTION NO. 19-81. RESOLUTION TO APPROVE MAJOR SUBDIVISION-PRELIMINARY PLAT OF MOUND HARBOR PLANNING CASE NO. 19-06

8. Building Official Recommendations

A. Consideration/Action on Resolution to Authorize Proceeding with Hazardous Building Action for Property at 1720 Resthaven Lane

Sarah Smith, Community Development Director said Staff is requesting action on a resolution related to an unsafe hazardous structure on Resthaven Lane and she introduced Tracy Ryman of MNSpect who is the Building Official assisting staff with regards to this matter.

Ryman said there was a structural fire on the property located at 1720 Resthaven Lane in January 2019, the damage of which has not been abated, and therefore he is seeking a Hazardous Building Action.

Ryman stated for the past 10 months that it has been an unsafe structure and posted not to occupy, the City has sent seven letters to the property owner trying to gain access and to find out about abatement plans, but all were returned. Ryman noted the City received one response, which was a letter to the City that basically said that the owner does not know what they want to do, but they'll let the City know when they do. Ryman said the City continues to send letters to no avail and the City has received complaints from residents which is why the City is asking for action now to move forward.

Smith added that around October 15th, the City heard that the property owner was intending to demolish the structure, but they were having difficulty procuring a contractor, which then the City asked for access onto the site, for the ability to inspect the structure, and also a schedule for removal/repair, however the owner has not responded. Smith stated the next step is for the Council to consider directing Staff to commence with a Hazardous Building Action, which would be brought back to an upcoming meeting to be formally considered, including all of the requirements under statute that allows the owner the opportunity to respond prior to the City proceeding with any abatement action.

Smith stated the City did notify the property owner by mailed letter and electronic mail on or around October 15th, that if we did not receive a response, Staff anticipated bringing the matter before the City Council this evening.

Velsor asked what the timeframe is once this resolution passes for the City to take action. Smith said most likely a month or two. Velsor asked if the owner is responsible for the costs. Smith said once the action is taken, the costs are wrapped up into the abatement according to state law.

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

RESOLUTION NO. 19-82. RESOLUTION TO AUTHORIZE PROCEEDING WITH HAZARDOUS BUILDING ACTION FOR PROPERTY AT 1720 RESTHAVEN LANE

9. **Catherine Pausche, Director of Finance and Administrative Services, requesting discussion and possible action on updated ADMIN POLICY XXX: Personnel Policy Code of Conduct**

Pausche said in August 2019, the City Council directed Staff to work with Council Member Larson to address her concerns on the proposed policy. Pausche said Larson had excellent suggestions about ensuring the City is providing flexibility for the employee, specifically when it comes to cases of harassment and put another level of accountability in with regard to documenting the complaint and follow-up.

Pausche explained that they created a Complaint/Concern Investigation Form, which is

new to this policy and adds a lot, including contact information of the options the employee has to report to. Pausche stated the City policy is to not investigate complaints that aren't in writing and it is a two way street that people have to be accountable, but people can also report concerns even if it doesn't directly impact them, there's a lot of flexibility in terms of who is the complainant and who is charged with doing the follow-up and ensuring that the conclusions were brought.

Pausche stated Council Member Larson wanted us to answer the question, if the employee was not satisfied with the outcome of the investigation from the city's perspective, what recourse would they have? Pausche said language was added to identify the EEOC (The Equal Employment Opportunity Commission) or the Minnesota Department of Humans Rights as additional recourse. Pausche noted the City did have a sexual harassment policy but this policy is more comprehensive with the vast majority of it written by the League of Minnesota Cities HR professionals, with elements of it reviewed by their attorneys. Pausche added Council Member Larson had a couple of extra questions included in the memo that were addressed by the City Labor Attorney. Pausche recommended that before doing any other thorough legal review, it would be appropriate for the Council to weigh in, to see the revisions and make a decision whether it's ready to be acted upon, which would be brought back on a consent agenda at a later meeting, or whether additional follow-up is required.

Pausche said she appreciates the efforts and the time Council Member Larson spent and it's been a productive exercise, and opened it up for Larson to add any inputs or comments.

Larson thanked Pausche who did a lot of work on it, and is very pleased with the added form and extra information, noting it is a drastic improvement and asked about the process. Pausche explained employees would have the form and it will be readily available, the employees will be signing off that they've received the policy and that they have a copy the form just like workers comp.

Larson pointed out that if there is a city employee with the way it is now, they have options of who they can go to but she is wondering about residents of the city who may have an issue with a city employee. Pausche answered the City has always been open and transparent and understands that everything City employees do and say could be brought back in some form or interpretation and residents seem to understand they can go directly to the public officials and not through City Staff.

Hoversten pointed out that the legal structure that the City benefits from and relies on is the League of Minnesota Cities Insurance Trust (LMCIT) who covers the City in the event of any claims, noting the language that's in front of the council is the language that was crafted by the League of Minnesota Cities. Hoversten cautioned getting outside legal opinions that may be in conflict with the LMCIT.

Velsor asked how should the City decide who it will be and suggested the City Labor Attorney may know somebody in the field that they feel comfortable with. Velsor said he agrees with Larson's request as long as it does not to exceed the limit, noting it might not take them that long to go through it.

Pausche stated the City Labor Attorney, Susan Hanson, said to review the entire policy would require four to six hours which would be \$800-\$1000. Pausche suggested the

reviewer should be someone who specializes in the area and there should be a not to exceed of \$1000.

Bergquist complimented the time and work to date, noting that it has been gone over 3 times, first by the League of Minnesota Cities, which is what they specialize in, second, the City Attorney, and finally by Pausche and Larson.

Larson said she is uncomfortable accepting the policy and requested an independent review before giving final approval, noting she would like to be able to ask the attorney questions directly. Larson thought it just needs a few more hours but if it goes over the budget, she will pay for it until it is right.

Salazar agreed that it is a great improvement and also a little bit more time to allow for an independent set of eyes makes sense.

MOTION made by Larson, seconded by Bergquist, to direct staff to seek an independent counsel to review the proposed policy, possibly referred by the City's Labor Attorney, for an amount not to exceed \$1,000. All voted in favor. Motion carried.

10. **Information/Miscellaneous**

A. Comments/Reports from Council members

Hoversten highlighted the following dates:

Tree lighting in downtown area on November 23rd

Thanksgiving is week later than typical, noting less time between Thanksgiving and Christmas

November 15th winter parking restrictions begin with no street parking between 2:00 AM and 6:00 AM

December 10th final Council Meeting

December 24th Council Meeting is cancelled

January 25th Polar Plunge in Mound, noting a number of ways to participate, including the throwing of a rubber chicken.

B. Reports: Liquor Store – October 2019

C. Mintues: Planning Commission – July 2, 2019 & September 3, 2019

D. Correspondence:

11. **Adjourn**

MOTION made by Bergquist, seconded by Larson, to adjourn at 8:00p.m. All voted in favor. Motion carried.

Mayor Raymond J. Salazar

Attest: Catherine Pausche, Clerk