

CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY  
STATE OF MINNESOTA

Minutes of the Regular Meeting  
Held Tuesday, April 19, 2005

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:30 o'clock p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER

Mayor Huber called the meeting to order at 7:30 p.m. The following members were present: Mayor Huber, Councilmembers Duggan, Krebsbach, Schneeman and Vitelli.

PLEDGE OF ALLEGIANCE

Council, the audience and staff recited the Pledge of Allegiance.

AGENDA ADOPTION

Councilmember Duggan moved adoption of the revised agenda for the meeting.

Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

APPROVAL OF MINUTES

Councilmember Krebsbach moved approval of the revised minutes of the regular meeting held on April 5, 2005.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

Abstain: 1 Duggan

CONSENT CALENDAR

Councilmember Duggan moved approval of the consent calendar for the meeting, revised to move items 6i, electronics recycling, , to the regular agenda, along with authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the Minutes from the April 12, 2005 Parks and Recreation Meeting.
- b. Acknowledgement of the Fire Department March 2005 Monthly Report.
- c. Acknowledgement of the March 2005 Treasurer's Report.
- d. Acceptance of Workers' Compensation Insurance Renewals.

- e. Approval of a Wetland Exemption Request from Opus along with authorization for the City Engineer to sign and notice the Wetland Conservation Act Decision within ten days.
- f. Approval of Le Cordon Bleu Private Water Main Agreement and Authorization for its execution by the Mayor and City Administrator.
- g. Approval of a Sign Permit for Boehm's Bike Shop at 1040 West Dakota Drive.
- h. Authorization for the issuance of the necessary permits for flagpole lighting for the Gateway Bank, contingent upon compliance with all applicable codes.
- i. Approval of Contractor List dated April 19, 2005.
- j. Approval of the List of Claims dated April 19, 2005 and totaling \$177,558.26.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

#### ELECTRONICS RECYCLING

Council acknowledged a memo and proposed resolution from Assistant Hollister in response to a request from Dakota County for support for management of end-of-life television and computer monitor legislation. Mr. Mike Trdan, from Dakota County Environmental Management, was present for the discussion.

Mr. Trdan gave Council and the audience an overview, stating that there is no mechanism in place for citizens to conveniently dispose of CRT's and televisions. The pending legislation has support from the governor and bipartisan support in the legislature. CRT's are considered hazardous waste and they are banned from landfills and other disposal facilities starting July 1. The county as part of the Solid Waste Management Coordinating Board (SWMCB) is responsible for managing solid waste and hazardous waste. Dakota County is asking for the cities in the county to pass resolutions to encourage passage of legislation on this issue.

Councilmember Vitelli stated that he has a lot of problems with the request. He asked what benefit the legislation would have for him as a resident of the county, city and state.

Mr. Trdan stated that individuals would have an opportunity to bring old computers and television sets to a location convenient to where they live and be assured they will be disposed of in a safe way. It is estimated that 75% of old television sets and computers are in garages and storage facilities. There are existing systems for recycling them, and he suspects

the systems will improve as time goes on, so it will mean less liability and cost to individuals or collectors.

Councilmember Vitelli stated that it is his feeling that it would cost him more to recycle those items.

Mr. Trdan responded that there are two pending bills in front of the legislature. One of them has an advance recycling fee where individuals would pay a \$10 fee when they purchase a computer or TV and that would go into a state fund. The other is a producers' responsibility. When someone purchases an item there is a life cycle cost, which includes the disposal of the item, and if there is a \$10 cost at purchase it covers the true cost of purchasing the item.

Responding to a question from Mayor Huber stated that to recycle a computer today, people can take them to the Dakota County Eco-site where there is space set aside that is operated by Gopher Resource Corporation. The county may end up working with Gopher Resource but lower the cost to the individual. Right now, the cost is about 60 cents a pound.

Councilmember Vitelli stated that one can dream about it costing less and it may visibly cost less, but this proposal will increase the cost of disposing of cathode ray tubes, be they televisions or computers. If one looked at the record keeping that is being asked of manufacturers in the proposed bill – all of the manufacturers are being asked to keep records and produce records of how many units are being sold in Minnesota. All the manufacturers will incur a cost. The manufacturers are being asked to deal with disposal sites and be responsible for some of those costs. They are not keeping records now. If that costs the manufacturers \$1, will charge \$1.50 for a new television or computer. That's just the start. There will need to be another government agency to receive all the paperwork and additional buildings to store it. Then they will have to file lawsuits against manufacturers. They will need interaction in meeting with manufacturers and the bureaucrats will be traveling and the manufacturers will be traveling. In the end, it will add \$50 to the cost of a CRT, including manufacturer markups and government costs. The proposed bill also talks about liability and indemnification of the city.

Councilmember Duggan stated that the draft bill states that the state would not be obligated to indemnify a city, and he wondered whether the word "not" was supposed to be in it.

Mr. Trdan responded that the state has placed the obligation for managing solid waste on the county. The cities do not get involved at all.

Councilmember Vitelli stated that his other point is whether this would reduce waste. People will buy CRTs and TVs. The only difference is today they have to pay \$20 or \$30 to dispose of it and if this passes they will have to pay \$50 or more.

Mayor Huber stated that he supports the proposal. The reality is that these things need to be recycled.

Councilmember Vitelli asked why there isn't a program that requires automobile manufacturers to record where every automobile is sold and make sure they are responsible for disposing of the automobiles. He noted that there is a nice system for batteries.

Mayor Huber responded that when someone buys a battery they pay a recycling fee up front. Most of the larger auto part stores will take used oil right now. He agreed that you have to recognize the total cost of the product, but the issue is, and the reason he supports it is that today there are only two places in the whole county that take these things. When it is that inconvenient for people to dispose of them that way, they will just throw them in the trash.

Responding to a question from Councilmember Krebsbach, Mr. Trdan stated that what the county is asking the city to do is to support the resolution that there should be some type of responsible, cost effective way of managing potential hazardous waste.

Councilmember Krebsbach asked what "support" means.

Mr. Trdan responded that it means the county is going to trust the legislature to pass a fair and appropriate measure. The county's position is that either of the proposed bills before the legislature now is acceptable.

Councilmember Krebsbach asked if there will be more sites if the legislation passes and what the net result of the legislation would be.

Mr. Trdan responded that it is likely that the net result of legislation would be that Dakota County will expand its eco site and possibly look at an additional site so there will be three sites, and it will cost less for people to have the items recycled because it will be covered by the recycling fee, which would be collected at the state level and distributed to the counties,

probably based on tonnage, or the manufactures will be required to kick in some money. They would also be responsible for the transportation of the material from the collection sites. The manufacturers would have to register with the state and pay a \$1,000 fee per year.

Councilmember Duggan asked how far out the application of this might be in relation to the future production of new computers and televisions in terms of newer or more modern CRT's.

Mr. Trdan responded that the deadline for changing over to high definition televisions has already been extended once. The deadline now is 2008, which is why the county is worried. The existing televisions will be obsolete.

Councilmember Duggan stated that Council is comfortable with preserving the environment from hazardous waste and from that standpoint he would provide some support for the request. He would like the county to suggest to the state that there be a \$10 recycling fee added to the purchase price of all appliances but that individuals get \$25 back when they recycle the units. That way it will be much more likely that people will recycle them. He would like someone from the county to pose that to the legislature. Otherwise, all it will result in is additional costs to the residents. He also asked if the counties are going to go into this separately. He asked about the SWMCB.

Mr. Trdan responded that the SWMCB is a six county organization in the metro area that consists of two commissioners from each county. They have actually taken over some of the responsibilities of the Metropolitan Council.

Councilmember Duggan stated that he thinks the constraint of 25,000 pound truckloads might be onerous on the smaller, less populous counties. It will cost people money no matter what, and he would like to strongly push for people to get more money back for recycling than they put into it. He asked whether cell phones will be looked at as hazardous waste requiring different legislation in the future.

Mr. Trdan responded that there are private recovery efforts underway now with respect to cell phones but he did not know how much hazardous waste there is in a cell phone.

Councilmember Krebsbach stated that many of the manufacturers of televisions and computers are not in the United States. She asked how the state will recapture from manufacturers.

Mr. Trdan responded that there will be reliance on private industry to work with the manufactures so that, for instance, the manufacturer shipping a television set from Taiwan will have to include in the price of a television set going to Best Buy for example. There are six or seven states that have similar legislation.

Councilmember Vitelli stated that as he understands it, a vote in support is a vote to support this county proposal. His point is whether Council is sure it wants to support this way of doing it. He would agree with Councilmember Duggan that it should be kept very simple, with a \$10 fee when a person buys a unit and gets back perhaps \$15 when he returns it. That would keep things simple and eliminate the bureaucracy. Under the proposed bill, a company from Taiwan would be required to Minnesota how many Taiwanese products were actually sold in Minnesota. While he sees the need to take care of the problem, he would not vote in support of the defined program.

Mayor Huber stated that what Council would be voting on is the resolution that urges the legislature to create a viable solution for disposing of electronic waste. The resolution gives a fair amount of working room to come up with something that works.

Councilmember Duggan moved adoption of Resolution No. 05-23 , “A RESOLUTION SUPORTING THE SOLID WASTE MANAGEMENT COORDINATING BOARD’S LEGISLATIVE INITIATIVE ON ELECTRONICS RECYCLING;” with the further provision that a letter be sent to the twelve members of the SWMCB detailing the recommendations made by Councilmember Vitelli and himself in relation to a simple fee and return fee at disposal, and that the council support the resolution only and not the attachments. Councilmember Krebsbach seconded the motion.

Councilmember Vitelli stated that the things he heard is the Council is voting on adoption of the resolution, that Council encourages a simple fee at purchase and return fee at disposal, and that Council makes it clear that they are not in support of the attachments.

Ayes: 5  
Nays: 0

PUBLIC COMMENTS

Mr. Robert Kreuser was present to ask several questions about Town Center regarding the pond, why there are street lights in Town Center when the city will not install ballfield lights, trees, sign location, setback from an existing home to the east, and that the streets are not wide enough for semi trucks to turn.

TOWN CENTER UPDATE

Mr. Ross Fefercorn was present to give Council an update on the progress at Town Center. Mr. Fefercorn stated that the first of the Linden Lofts sixteen unit condominium buildings is under construction and the second one will start as sales progress on the first building. That building should have its first residents by late July or August. By that time, the water feature fountain at the turnaround driveway and landscaping around the entire site will be completed. Responding to comments from Mr. Kreuser earlier in the meeting, he stated that the tree line to the east is made up of volunteer soft wood trees with a power line running through them. Xcel Energy cuts them on an annual basis so they have never been very attractive. There was a home on that side of the development, and it is being moved and a new home will be built on the lot. He has had contact with the person who is building that home and discussed landscaping with him. The owner of the lot plans to place an attached garage on the Town Center side of his home, next to the condominiums. He stated that he has also had discussions with the pastor of St. Paul's Church. The minister is happy to work with him on an enhanced landscaping scheme in continuity with the church's landscaping. In sixty days or so,

Mr. Fefercorn stated that buildings two and three of the Village Row townhomes are currently under construction. Five of the first six units in building two have been closed. The liner went into the pond last week and landscaping around the townhome buildings will begin as soon as it dries out and as soon as the back yard area of the townhouses is completed. He is communicating with MnDOT about completing the curb and gutter along Dodd Road to finish the edge of the project up to the church. Building F of the commercial area is under construction. Space has been leased to Caribou Coffee and the Wine Market by Kowalski. He showed samples of the signage that the Kowalskis are working with.

Responding to a question from Councilmember Duggan, Mr. Fefercorn stated that the consultant who has been working on the market study for the grocery/deli is nearly done and will present it to Council at the next meeting.

Mr. Fefercorn stated that he has a letter of intent from an upscale hair salon, and a group is exploring the possibility of a Pilates studio. He also received an interesting inquiry from a locally owned bakery café and wine bar. He has also had other inquiries about wine bar/bistros, and on his way here this evening, he received a phone call from a pizza shop owner who is looking for a second store location. He has submitted the first grant funding request to the Metropolitan Council. That is being processed right now.

Mr. Fefercorn informed Council that the foundation and stucco is in for a monument sign at T.H. 110 and Dodd. The location of the monument is well thought out and documented. The sign is as close to T.H. 110 as it can be and it is visible from westbound Highway 110 traffic. From eastbound traffic it is at a nice elevation to be visible from the steering wheel. He believes, through the studies that have been done, that the monument sign is at the best possible location. The sign is designed to be backlit but not actually have spotlights on it. As construction of Building F is being completed, (he anticipates tenants beginning to build their spaces in August and open in the fall) landscaping will be completed as quickly as possible. The food market would be in Building D and a wine market/bistro would be located in Building E. Those buildings are designed and can be built very quickly.

Mr. Fefercorn then informed Council on the marketing of the development. He stated that the development received recognition in the April issue of the Minneapolis/St. Paul Magazine. There will be an insert in the Pioneer Press in early May that will include ads from the tenants and stories about Mendota Heights. There will be a realtors event in May with hard hat tours, etc., and there will be an event for residents in June. The development also has a website, [villagemh.com](http://villagemh.com). As Building F gets further along, there will be a steel topping event and invite the press. Most of the signage has gone up and press releases and marketing etc., have been stepped up.

Councilmember Duggan stated that as the result of an email from a resident, he has been watching the site for debris, and it seems to be better picked up than it has been. He expressed appreciation to Mr. Fefercorn his efforts in continuing to maintain the site for the neighbors and the city. He also asked Mr. Fefercorn knowledge of public transit needs in developments like this.

Mr. Fefercorn responded that he would hope that bus service would be user friendly for the residents of Mendota Heights, but he recognizes that

bus use can be sporadic. His assumptions are that in the future there will be a need for bus service and that they will be smaller and make more frequent trips. He did not think the lack of bus route to the site will affect the development but did not know about the residents in the senior facility.

Councilmember Vitelli stated that he has been very impressed with the commitments that are made and followed through, both schedule and cost wise, and also very impressed with the quality and the way the project has developed.

Councilmember Schneeman stated that she is happy to see that the buildings have been signed so that people going into the development know exactly what will be going into the spaces.

Mr. Fefercorn informed Council that the market value of what is under construction now is \$20 to \$25 million, which greatly exceeds the tax value of what originally existed on the site.

Councilmember Krebsbach the development is being delivered as promised and planned. She also noted that there will be real brick on the commercial buildings, and commended Mr. Fefercorn for that.

#### HOME OCCUPATION PERMIT

Council acknowledged a memo from Assistant Hollister in response to a request from Mr. Carlos Higueros for a home occupation permit for car wholesaling at 961 Delaware Avenue.

Mayor Huber stated that unless Mr. Higueros comes later in the meeting, Council would table the matter one more time. If he does not show up at the next meeting, Council will do nothing.

Assistant Hollister stated that he spoke to Mr. Higueros this afternoon and he indicated that he would be present this evening.

#### DAKOTA COUNTY CIP

Council acknowledged a memo from Engineer McDermott regarding Dakota County 2005-2010 Capital Improvement Program (CIP) requests.

Engineer McDermott stated that four projects in Mendota Heights are identified in the CIP, three of which are scheduled for 2005: the traffic signal upgrade at Delaware and T.H. 110; the Lexington Avenue Trail; and, the North Urban Regional Trail. The fourth project, installation of a traffic signal at Pilot Knob and Mendota Heights Road, is scheduled for 2006. When she met with county staff earlier this month to discuss preparation of the CIP, they also discussed improvements to the

intersection of T.H. 13 and Wachtler. The county staff said if the city requests the improvements, they would probably be scheduled for the year 2010 because of funding constraints. The county staff were concerned over possible issues with bringing the intersection closer to the proposed OPUS access point and would have to look at the project to see if it would be beneficial. She informed the county staff that the city would also like to include the trail along Wachtler, through the OPUS development, and they indicated they would participate in the costs on a 55/45% basis similar to the Lexington Avenue trail. She recommended that Council support completion of the projects and request that the Wachtler trail be included in the list.

With respect to the TH 13/Wachtler improvements, Mayor Huber stated that he could see someone looking at a book that says intersections have to be so many feet apart without seeing what the site looks like, but there is no one who could tell him that straightening out Wachtler, which puts it closer to the access point for OPUS, is more dangerous than what exists now.

Engineer McDermott responded that was one of the concerns the county thought MnDOT might have and it is based on the length of any right turn lanes that need to be there.

Mayor Huber stated that cars in the right turn lane create a blind spot. The OPUS access is not going to create a blind spot anywhere near what exists now. Also, the city needs to be careful with the Wachtler trail. The city is working very closely with the neighbors on this development, and if the county says the trail must be off-road and must go to Cherry Hill Road, the city will have a problem. Council has made some representations to the neighbors. He wants Council's position to be very clear.

Engineer McDermott responded that she does not think the county would participate in the cost of the trail if it were off road.

Mayor Huber stated that he wants to be very clear about what the city means. When Council talks about a trail on Wachtler, they must keep the residents' concerns in mind.

Councilmember Duggan stated that the city should support the four projects that are included in the CIP and request that installation of a traffic signal at Wachtler and T.H. 13 be studied and that the county

prepare a study of the appropriate place and size of the Wachtler trail for review by Council.

Engineer McDermott responded that the county would not prepare a feasibility study for the trail. The trail would be driven by and designed by the city.

Councilmember Krebsbach moved to direct staff to prepare a letter supporting completion of the four projects identified in the CIP and requesting that the Wachtler Avenue trail be considered for joint funding between Dakota County and the City of Mendota Heights. Councilmember Schneeman seconded the motion.

Ayes: 5  
Nays: 0

#### TRAIL CONSTRUCTION

Council acknowledged a memo from Operations & Projects Coordinator Kullander regarding a recommendation from the Parks Commission for authorization for city engineering to begin preparation of feasibility studies for construction of trail segments along Dodd Road, Wachtler Road and Sibley Memorial Highway to provide linkage between existing city trails.

Engineer McDermott informed Council that the request this evening is from the Parks and Recreation Commission for authorization for city engineering to prepare a feasibility reports for a trail along Wachtler, from Cherry Hill Road to T.H. 13, and a trail along T.H. 13 from Wachtler to Lilydale Road. Staff proposes to construct the trail in 2007 and would like to begin the feasibility study now because staff would like to investigate grant money and it will take that long to work with MnDOT on the T.H. 13 trail. The commission would also like authorization for a feasibility study for a trail along Dodd Road from Marie Avenue south to a new trail to be constructed as part of the Town Center project.

Mayor Huber asked if there would be a public hearing.

Engineer McDermott responded that public hearings are not required but certainly could be held. Staff could conduct an informal neighborhood meeting first and then Council could conduct a hearing if they desire.

Councilmember Vitelli moved to direct the city engineering department to begin preparation of feasibility studies for future trails along Dodd Road, Wachtler Road and Sibley Memorial Highway. Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

#### COUNCIL COMMENTS

Councilmember Vitelli stated that he did not feel the Higueros issue is being handled correctly. He thought there was someone in the audience to comment on the matter and he left right after the issue was tabled. He asked if the city is required to notify neighbors so that they have input. There is a risk of cars being parked on the street or the vacant lot, and he feels neighbors should be informed of this and that Council should get their input.

Attorney Schleck stated that he is proposing a different approach – to let the zoning code do its job. It has definite restrictions on what people can do. He sees it no differently from a development project. Mr. Higueros is just asking if a home occupation can be located on that property. There are restrictions against running retail sales out of a home. Mr. Higueros could not use the vacant lot. He is asking the city to confirm that the site can be used as a home office. If someone is asking the city if the property is zoned for home occupation, yes it is, but there are restrictions. It cannot be operated as a car dealership. The city enforces its zoning code the same as it would enforce it on any other property in the city. The request is whether a home office can be conducted in that zoning district. It would not be inappropriate for the city to attach a copy of restrictions to the letter.

Mayor Huber stated that if Mr. Higueros buys an automobile at auction, there is a time lag between when he makes the purchase and when it is shipped to Guatemala. He wants to know where the car would be in the interim.

Councilmember Schneeman stated that Mr. Higueros does have a vacant lot and he has been told that he cannot park any cars there.

Councilmember Vitelli informed Council that he and Administrator Danielson plan to go to the post office tomorrow because the mail boxes from Town Center almost to Marie Avenue are on the opposite side of the street from the homes. There is danger to the residents in crossing Dodd to get their mail. He stated that he is told the postal carrier comes down Dodd and turns around and goes back. He would like to find out at the post office what the process is to have a change in delivery. After that, he, Administrator Danielson and staff will go talk to the residents. If they agree that they want the boxes on the same side of the street as their homes, they will be encouraged to sign a petition. He further stated that

Mr. Fefercorn is trying to deal with a parking area on Dodd and the mail boxes may be in the way.

Council concurred that Councilmember Vitelli should find out what the process is and proceed.

Councilmember Schneeman stated that she was out visiting city parks over the weekend and everything looks wonderful. There were about 15 young people at the skateboard park and there were families fishing at Rogers Lake. She informed the audience that Mr. Ira Kipp has donated nine rose bushes for Rogers Lake Park.

Mayor Huber announces that the annual Spring Cleanup will be held on Saturday, May 7 at the Mendota Plaza from 8:00 a.m. to 2:00 p.m.

Councilmember Krebsbach stated that she received a call about dead trees and asked if there are any ordinance requirements with respect to removal of dead trees.

Administrator Danielson responded that the proposed property maintenance ordinance would require that trees that are down must be removed, but it does not require that trees be cut down.

Councilmember Krebsbach announced that her daughter Katy ran the Boston Marathon at 3 hours and 56 minutes.

ADJOURN

There being no further business to come before Council, Councilmember Duggan moved that the meeting be adjourned.  
Councilmember Schneeman seconded the motion.

Ayes: 5  
Nays: 0

TIME OF ADJOURNMENT: 9:14 p.m.

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Kathleen M. Swanson  
City Clerk

ATTEST:

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John J. Huber  
Mayor