

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Monday, February 17, 2009

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:00 o'clock p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER Mayor Huber called the meeting to order at 7:00 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 Schneeman seconded the motion.

Ayes: 5
Nays: 0

APPROVAL OF MINUTES Councilmember Duggan moved approval of the minutes of the regular meeting held on January 20, 2009.
Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

Councilmember Duggan moved approval of the minutes of the regular meeting held on February 3, 2009.
Councilmember Schneeman seconded the motion.

Ayes: 4
Nays: 0
Abstain: 1 Vitelli

CONSENT CALENDAR Councilmember Duggan moved approval of the consent calendar for the meeting, revised to move items 6e, Traffic Safety Committee recommendations, and 6i, fire department instructors conference, to the regular agenda, along with authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the NDC4 meeting minutes and agenda from December 3, 2008.
- b. Acknowledgment of the minutes from the January 10, 2009 Parks and Recreation Commission meeting.

- c. Acknowledgement of the Fire Department monthly report for January 2009.
- d. Acknowledgement of the January 2009 Treasurers Report.
- e. Authorization for the issuance of a purchase order to Inver Grove Heights Ford for a one ton truck for its low quote of \$25,378.13 and a purchase order to Truck Utilities, Inc. for a crane and utility box for its low quote of \$22,667.00.
- f. Approval of the List of Contractors.
- g. Approval of the List of Claims dated February 17, 2009 and totaling \$175,954.28.

Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

TRAFFIC SAFETY

Mayor Huber stated that he pulled this item from consent to see if there is anyone present in the audience regarding the recommendations of the Traffic Safety Committee. Public Works Director Mazzitello gave a brief review of the recommendations.

Councilmember Duggan moved to authorize staff to implement the recommendations of the Traffic Safety Committee.

Councilmember Vitelli seconded the motion.

Ayes: 5
Nays: 0

Councilmember Krebsbach stated that the fire chief serves as a citizen representative and she thinks there should be a citizen representative on the committee who is not a city employee.

Councilmember Schneeman suggested adding a member to the committee. She stated that the fire chief is a resident and with his job with the City of St. Paul he is an invaluable member of the committee.

Councilmember Vitelli disagreed, stating that any committee with more than five people is unproductive. He stated that he does not violently object to the suggestion but opposes adding people to committees for a minor reason

Councilmember Krebsbach stated that Mr. Maczko should be on the committee as the fire chief and remove the citizen designation.

FIRE TRAINING

Council acknowledged a memo from Fire Chief Maczko requesting authorization for Training Officer Dreelan and Assistant Training Coordinator Kingsley to attend the 2009 Fire Department Instructors Conference in Indianapolis.

Councilmember Krebsbach stated that she doesn't object to this but asked if Mr. Kingsley has a job as a fire trainer and if the cost could be shared by his employer. There is a dual benefit both as a professional and as a volunteer firefighter.

Assistant Sedlacek responded that Mr. Kingsley is the Fire Marshal for Apple Valley and Mr. Dreelan is with the Plymouth fire department. He did not know the rationale for picking Mr. Kingsley to attend, but it is common in the leadership positions in the department to have people who are already in the fire service.

Councilmember Duggan moved to authorize attendance at the 2009 Fire Department Instructors Conference and to direct staff to prepare a resolution to revise the Fire Safety Committee resolution to replace the citizen representative with the fire chief.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

PUBLIC COMMENTS

Mr. & Mrs. Ron Berfelz, 688 W. Wentworth, were present to ask about the status of the house next door to them (694 W. Wentworth). Mrs. Berfelz showed a photo of the house and stated that the house was originally sold in 2006 and stood empty for quite awhile after it was sold and has been standing unfinished for two years. On December 2, 2008 the Council elected to issue an order for abatement and gave the owner to January 31 to abate the property but he has not. At the Council meeting two weeks ago, Mr. Sedlacek mentioned that there was a sale pending and the city was going to give the owner until February 6 to make the sale. It's more than two weeks past the deadline for the abatement order and the house is unsightly and dangerous.

Assistant Sedlacek stated that the city issued an order for abatement in December. That has been certified by the county and it expired on January 31. The next step is to go back to the court and certify the expenses the city has incurred to date and get authority for the city to abate the property and start collecting bids. There have been several parties who have been working with city staff to try to pull together a purchase agreement. The goal of the city is to get this fixed as rapidly as possible and have the property change hands and put a quick deadline on a new owner that would get things resolved quicker than if the city did the abatement. Last Friday two of the interested parties contacted mechanical engineers and they are not inclined to give an opinion on the foundation until the frost is gone.

The interested parties are apprehensive about purchasing the property until they know about the foundation. The bank that holds the house has said they have no intent to do the abatement.

Mayor Huber stated that he understands that people want to know what's going on before they buy the property but it seems like that will take a long time and then the engineers will do their studies. That could take until May. He is not willing to wait that long and feels that the city should go through the court process and get the bids to raze it.

Assistant Sedlacek responded that staff will come back to the next meeting with the order and bids for removal.

Councilmember Schneeman stated that she received a call from someone who was going to come to this meeting. They want their engineer to look at it. The property is a mess and she is not interested in waiting that long. She told them that they can come to city hall to talk about this and get some answers but the city does not want to wait until the frost comes out of the ground.

Mr. Berfelz stated that the adjacent property line is seven feet over his property.

Assistant Sedlacek responded that the city does not get involved in property line disputes. The city's action will be to remove the existing structure.

Councilmember Vitelli asked Mr. Sedlacek to require in the RFP that the contractors tell the city how quickly they can respond because the city may be willing to pay more to someone who can get it done in a week or two.

Councilmember Duggan suggested that the Berfelz's meet with Mr. Mazzitello and the City Attorney to see how they can get the seven feet restored.

NPDES HEARING

Public Works Director Mazzitello stated that the city holds permits from the Minnesota PCA for the storm sewer system that regulates maintenance and discharge. The city is required to hold a public hearing annually on the status of the storm sewer system. Unfortunately the advertising requirement has not been met, so the hearing must be continued to March.

Councilmember Duggan moved to continue the hearing to March 3.

Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

RIVER BLUFFS VILLAGE

Mr. Mark Hoisser, President of DARTS, and Ms. Jessica Hagemann, River Bluffs Village project director, were present to provide information on River Bluffs Village. Mr. Hoisser gave the history of how this program came about. It is a membership based independent living program for people 55 and over focused on giving people the choice to stay in their homes as long as they want to. River Bluffs Village membership is open to residents of Lilydale, Mendota, Sunfish Lake and the northern part of Mendota Heights (north of T.H. 110). The membership fee gives access to a list of screened vendors, car rides, social activities and certain fee based services.

Ms. Hagemann stated that their goal is to enroll 60 to 70 people this year. The basic membership fee includes handyman hours, rides with DARTS, enhanced transportation with personal driver service, and free events. There is a scheduled bus system for events scheduled in advance and private car service for events not scheduled in advance. There are two levels of membership. The basic membership is \$480 a year for a single person or \$640 for a household and the advanced level is \$1,040 for a single person or \$1,180 for a household.

Responding to questions from Councilmember Vitelli, Mr. Hoisser stated that the Daniels Fund will fund River Bluffs Village until it is self sustaining. The ultimate goal 300 members supported by 3.5 staff people.

Mayor Huber asked staff to place an article about River Bluffs Village in the city newsletter and to provide a link on the city's website.

CASE NO. 09-03, CITY OF MENDOTA HEIGHTS

Assistant Sedlacek stated that the initial public hearing on the city's application for a comprehensive plan amendment and rezoning for the former fire station site at 2144 Dodd Road was held at the Planning Commission meeting in January and no one from the public was present for the hearing. Staff republished the hearing to make sure people knew about it. He stated that in 2007, Council expressed interest in selling the site. The city planner recommended that the most appropriate use was business. The residents who came to the hearing said the property is zoned residential and should stay residential. The property was listed with a realtor as residential,

and the only interest the city received was from some local business owners wanting to build a single story business. The planner still feels business is the most appropriate use, so the city has made application to change the comprehensive plan and zoning from single family to limited business guidance and B-2 zoning. The property is three different parcels. As it currently sits, there is a shared driveway on the property. The city received an email about water runoff from the parcel, and staff has prepared a map showing the elevations in the area. The elevation drops from 886 down to 874 at the back property line. The caller was concerned about the runoff from the Fischerville site and the aggregate from that site washing into the storm drain. Staff feels this is an appropriate time to correct the runoff issues. That could be done if it is residential or business.

Mr. Sedlacek showed potential designs for the site with single story business use, customer parking in the back, and maintaining the shared driveway. The building could be 4,000 square feet or less. Staff feels the best use of the site is as commercial. The Planning Commission held a hearing on January 27 and agreed with the planner's recommendation. There were no attendees at the hearing and the commission recommended approval of the rezoning and reguiding request.

Councilmember Duggan stated that the biggest concern expressed by the people on the east side of the property was over drainage. He asked if the drainage is correctible both on this site and on Fischerville's.

Public Works Director Mazzitello responded that part of the site development approval process that will take place to develop this lot will be for the buyer to meet the requirements of the new storm water ordinance. Storm water runoff from this site will have to be at an equal or lesser rate than exists now. No increase in storm water runoff would not be allowed from this development. Once it thaws and he can see the drainage, he will work with the residents to see how to resolve the existing drainage issues.

Councilmember Krebsbach asked if there is some other way to have the driveway on the parcel so there could be a landscaped buffer to screen the residential.

Assistant Sedlacek responded that there is a question about buffering. One requirement of business that abuts residential is for a fence. With the shared driveway, the fence would be right up against

the building. That would require a variance request from the future owner. The lot line splits the driveway.

Councilmember Krebsbach asked if Council could require a smaller building or reconfiguration.

Assistant Sedlacek responded that Council could do that. The building site is 6,000 square feet and the interest that has been expressed has been for a 4,000 square foot building. There has also been interest in parking along Dodd to avoid parking on the easement in the back.

Council is not approving or disapproving what a potential future applicant might bring before Council. He asked the city attorney if screening the new use from the neighboring property could be addressed in the purchase agreement if someone comes forward wanting to buy the land.

Attorney Diehm responded that can be addressed in the purchase agreement or when a permit is requested for a new commercial building or when there are any other land applications.

Mayor Huber stated that Council would want to discuss screening when the city has some leverage. Probably the right time to deal with that would be at the time a purchase agreement is prepared, so that it is clear in the beginning what the requirements will be.

Councilmember Duggan asked if someone wants to develop the site as a commercial site and the city is selling it, can the city grant a variance to allow the site to be developed in the dimensions whoever owns the site wants.

Attorney Diehm responded that those would be separate and distinct steps. The city could enter into a purchase agreement and sell the property and the city would need to treat that applicant like any other applicant who would have to meet the requisite requirements for hardship.

Mayor Huber pointed out that the property is substandard and that will not be a surprise to Council. The property is about 17,000 square feet and the minimum requirement is 20,000.

Mayor Huber asked for questions and comments from the audience.

Ms. Laurie Weinzettel, 2140 stated that she did not get notice of the Planning Commission hearing. The last she spoke with anyone about it was in November or December. She stated that the neighbors have gone through all of this before. She thinks that Council is going to set a precedent because if the city rezones land without a development plan, she could come in two years from now and ask for her land to be rezoned and she could make more money on it. The fact that the land is 3,000 square feet less than the ordinance requires should stop the it from being sold as business. There was never a drainage problem when the old fire hall was there. The city had it so all the water went in front of the fire hall and down along the building. The city took down a good building that police and fire were using. She had to call pollution control because the city was just going to pave over the old gas tanks. It should be sold as residential and it should be up to the owner to come to the city and ask for rezoning. She does not treasure the idea of people coming in and out of the driveway seven days a week. She blacktopped the driveway and fixes it. She does not think it's a matter of what is in the purchase agreement. She has no say in the purchase agreement. The city does not cut the grass and no one waters it. When the city comes in twice a year to cut the grass, they run over the sprinkler heads. The dentist who was interested in the site before took the time to talk to all the neighbors and she was all for it, but she was of the understanding he would have to buy it as residential and then bring in his design and ask for rezoning.

Mr. Charlie Durenburger, 790 Creek Avenue, stated that he did not receive notice of the Planning Commission hearing. There was no public input because the neighbors did not know about it. The rational for rezoning to commercial was proximity to Dodd. He does not understand why that means it should be zoned commercial. It is all residential up and down Dodd. It is across from a park and that is not a negative for residential. The neighbors are concerned about the appearance of the businesses on Dodd. They look horrible from the back. They are concerned that another commercial building will not be maintained on the back side. Putting in another commercial building will impact the value of his home negatively.

Ms. Deb Olson, 2116 Fox Place, stated that her concern with rezoning is that the city requires a buffer between commercial and residential is a buffer. She stated that she had hoped that the ordinance would have been enforced when Fischerville came in. She was hoping there would be a fence between the residential and commercial, but it did not happen. She has not had a good experience with buffering.

Assistant Sedlacek responded that was an existing non-conforming building, so a fence was not required. If it was a new building it would have been required.

Mr. Alan Olson stated that he lives directly behind Fischerville and CNS. The property behind his is commercial and is horrible looking. Three to four years ago he asked Sue McDermott to look at the property and they talked about the storm water problems coming off of CNS and SignArt and Ms. McDermott said the city could do something about it. Nothing has been done. Before Council rezones, he would like to see things fixed. He wants to be shown things are fixed before he believes the next business will not be as bad as Fischerville and CNS. He put a lot of money into building a retaining wall along his property line because of the drainage problems. CNS has been allowed to increase the size and height of their gravel parking lot and their retaining wall is falling down. They don't do anything. There are weeds behind the shop taller than he is. He can't keep up with it. He hauled away 20 pickup loads of brush off the CNS property last fall and took it to the Halloween Bonfire. He does not want another commercial property.

Chad Trochlil, 2145 Fox Place, agreed with his neighbors. One concern of his is the size of the lot and trying to squeeze something on it. It would be difficult to create the buffer between the existing properties.

Ms. Weinzettel stated that the property was originally owned by Jake Weinzettel and Frank Fischer. She asked if the city has ever looked to her and two other property owners – her, CNS and Mr. Trochlil, - to see if they want to buy one of the three parcels each.

Assistant Sedlacek responded that would be great.

Councilmember Schneeman suggested they make the city an offer.

Mayor Huber stated that it was decided by Council 18 months ago to sell it for residential, but no one has been interested in it. There have been no offers at all. The concern of Council was to listen to the residents and make a credible attempt to try to sell it as residential, but there was no interest whatever. That is a concern. Regarding the layout, whenever the city has an application like this it is incumbent on the applicant to portray what a building might look like. Staff put together the drawings for commercial options to show that someone could put a building on the property and it would be viable. Council

does not know if the building would look like the drawings. The city will own the property until it is sold. Council does not want to put the residents at risk for what the building be like. Council understands what the neighbors' concerns are from an appearance standpoint. The city needs to address those concerns about the other businesses no matter what goes on the property. The city needs to look at what is going on at the parcels that are already there. He understands the neighbors' frustrations but would like to think they are separate issues. He looks to staff to say to the extent the city has leverage and the ability to enforce change on what is going on the next to the neighbors, the city must do that no matter what happens to the city property. Staff has to respond to that keeping in mind that there are some things the city can do with regard to property maintenance issues and some things the city cannot do. To the extent the city has the power to do something, everyone on Council would tell staff to get after it.

Councilmember Krebsbach stated that she will not support the rezoning and comprehensive plan amendment due to the fact that the city did not follow correct process. The neighbors were not notified of the Planning Commission hearing and were not given that opportunity for input. The city does not need the revenue that would come from the sale and the economic climate for buying a lot is limited. It may be that the best thing to do would be to rezone it for business, but not under these circumstances.

Assistant Sedlacek clarified that proper notice was printed in the newspaper. It was legally done, but he could not find proof that the letters also went out. That is why notices were mailed for this evening's meeting.

Councilmember Vitelli stated that this is not a done deal. Council has been working at this for eighteen months thinking there may be something the city can do to sell the land and alleviate some of the complaints the neighbors have. After hearing all the comments, his recommendation is to just pull it off the market and forget about it for now. There are residents expressing concerns and it is not worth having unhappy residents and all these meetings and maybe an unhappy future owner. Maybe one of the businesses will decide to do something or someone may sell and things may change. Council should also hear from the residents if they want to buy it. He suggested taking it off the market until something changes.

Councilmember Duggan stated that he heard a rumor that Dr. Wild was interested in buying the site and he wondered what if he were

interested in combining his building with the existing Fischerville building and share parking. He asked what Council can do to forbid parking on Dodd Road. It is dangerous getting out of Fischerville. When this came to Council, Council discussed whether the site is more suited to residential to commercial. Council did try to sell it as residential and give it a year or so to see what happens. Nothing has happened and Council wondered what would happen if the city tries to sell it as commercial. It is under 20,000 square feet, but it can still be developed as commercial. It would be difficult to put restrictions on it in terms of the number of stories, etc. It would have a walkout basement in the back whether residential or possibly commercial. Whatever would be done, the drainage would be fixed. To him, the unsightliness of the back of the building is a challenge because the city does not have strong ordinances in place. The city can encourage Fischerville to work on the back of their building. A new building, either residential or business, would be nice and that may encourage Fischerville to fix their building up. He would much prefer to see a nice walk-out residence properly spaced on the lot, but no one has offered anything. All the city can do is wait. He would support holding off but would also ask Public Works to get out and clean up the fire station site this spring. Hopefully that would persuade Fischerville to do something with their site.

Councilmember Schneeman stated that she would not build a house on that site. It is not conducive to building a house there. She thought it would be very advantageous to have a small office building there that would look residential because it would clean up that area. She thinks the city has done a good job of taking care of the property. When she has seen it, the grass has always been cut. As a responsible person in government, she felt it is conducive for Council to sell the property and get whatever money the city can get out of it rather than let it just sit there.

Councilmember Vitelli moved that the city withdraw the planning application.

Councilmember Krebsbach seconded the motion

Ayes: 5

Nays: 0

Councilmember Vitelli moved to take the property off the real estate market, have public works look at some of the complaints and give some special attention to at least taking care of the city property, and to also take a hard look at what enforcement powers the city has with respect to what's going on behind Fischerville and CNS.

Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

Attorney Diehm stated that staff will have to look at the agreement to see if it can be terminated or let the property stay on the market until the agreement ends.

Mayor Huber reminded the audience that code enforcement is on a complaint basis. If someone sees something they think is not in compliance with city code, they should contact code enforcement to make a complaint. He asked staff to take a look into the complaints that were raised regarding the Fischerville and CNS properties.

ZONING CODE REVIEW

Council acknowledged a memo from Assistant Sedlacek regarding review of the Zoning Code. The planner would like to follow the timeline that was presented on February 3. Staff sent out copies of the zoning code and asks Council, the Planning Commission and staff to get their comments back to the city planner by March 23.

COUNCIL COMMENTS

Councilmember Vitelli congratulated Councilmember Schneeman on the birth of her twin grandsons.

Councilmember Krebsbach noted that Mr. Carl Drake past away last year and she did not note it. He was an outstanding member of the community. She also stated that on March 3 the Executive Director of Friends of the Mississippi River or the Rep. Hanson's office may want to come to discuss the impact of the proposed critical area legislation.

Mayor Huber responded that there is a meeting by the LMC on this issue on Friday. He stated that Ms. Jones from the Friends of the Mississippi River gave a presentation at the last meeting and staff should be able to draft a letter for Council to review at the next meeting.

Councilmember Duggan stated that Public Works Director Mazzitello is appearing on NDCTV on how to spread sand and salt. He also stated that there was an article about Mr. Bernie Friel in the Highland Villager and that he has a video as part of the Science Museums National Park Service and the Grand Canyon.

Councilmember Duggan stated that he was pleasantly surprised that a member of his family who is 90 years old is a member of the Lilydale Planning Commission. He also informed Council that he and Ralph Dumond are working with the school district to help with

their anniversary plans. They are looking at the possibility of a parade at Sibley High School.

Public Works Director Mazzitello informed Council that staff will conduct a neighborhood meeting on Wednesday evening to discuss proposed street improvements in the Orchard, Culligan and Hunter Lane neighborhoods.

ADJOURN

There being no further business to come before Council, Councilmember Duggan moved that the meeting be adjourned to 6:15 p.m. on March 3 for Council interviews of Parks and Recreation Commission candidates.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

TIME OF ADJOURNMENT: 8:43 p.m.

Kathleen M. Swanson
City Clerk

ATTEST:

John J. Huber
Mayor