

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, May 19, 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: 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 agenda as revised.
Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved approval of the minutes of the regular meeting held on April 21, 2009 as presented.
Councilmember Vitelli seconded the motion.

Ayes: 5
Nays: 0

CONSENT CALENDAR

Councilmember Duggan moved approval of the consent calendar as presented, pulling items f & g for further discussion, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the Minutes from the May 12, 2009 Park & Recreation Commission Meeting.
- b. Acknowledgement of April 2009 Monthly Fire Department Report.
- c. Acknowledgement of the Treasurer's Report for April 2009.
- d. Acknowledgement of Update on 2009 Spring Clean-up.
- e. Authorization for Purchase Order for New Squad Car Laptop.

- f. Authorization to Sign Contract for Dakota County Traffic Safety Group Surveys.
- g. Approval of Amendment to Development Contract for Lemay Shores.
- h. Adoption of Resolution No. 09-31: “RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACT FOR 2009 SANITARY SEWER REHABILITATION (PROJECT NO. 200905)”.
- i. Adoption of Resolution No. 09-32: “RESOLUTION APPROVING FINAL PLANS AND SEPCIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CHERRY HILL 2ND REHABILITATION PROJECT (PROJECT NO. 200903)”.
- j. Approval of the List of Claims, dated May 19, 2009, totaling \$345,450.26.

Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

Item “f” was pulled to allow Chief Aschenbrener give additional information. Chief Aschenbrener said the city is one of the original members of the Traffic Safety Group and one of the things that is being done as part of their activity is looking at statistics and patterns to plan the city’s enforcement. This is the second half of a random survey of 400 residents in Dakota County that was done on a variety of different things on the education side of attitudinal and behavior changes across Dakota County.

Councilmember Krebsbach moved to approve the authorization to sign a Contract for Dakota County Traffic Safety Group Surveys.

Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

Mayor Huber asked to have item “g” pulled and recommended that no action be taken on this at this time. Hoffman – Mendota Shore, LLC has asked for an extension of 24 months for the Final Plat and Planned Unit Development to June 20, 2011.

City Attorney Tami Diehm said the existing contract for private redevelopment between the City of Mendota Heights and Hoffman-Mendota Shore LLC expired on its

face, there were some obligations and some conditions that had to be met by certain dates. Primarily, the developer had to take possession of the land at start the development. The developer has asked the city to grant an extension for two years given the current state of the housing market. The council has the ability to grant that extension by entering into an amended and restated contract for redevelopment which would incorporate all of the existing terms but simply change the dates. If the council would rather, they could require the developer to come back and discuss any issues or questions that may arise.

Ms. Diehm said it is staff's recommendation that the council ask the developer come forward and provide a status report on the progress of the actual acquisition of the property and their plans for commencing construction.

Mayor Huber suggested that there is no rush on this.

Councilmember Duggan suggested that staff and the city attorney take a look at the agreement and pull out points referencing going forward and advising what those points are, what their recommendations are and bring that document back before the council for inclusion as an amendment to the original document should this body then agree to that. Mayor Huber said he agrees to that and noted that Ms. Diehm has not had sufficient opportunity to look at this document as she just received it.

Mayor Huber invited Pat Hoffman, Hoffman-Mendota Shore LLC, to speak on this. Mr. Hoffman explained how the market has challenging. Mr. Hoffman said there is just no new construction, and indicated that he has a project in Inver Grove Heights which is planned for 39 single family lots, of which only two have sold since 2006. Mr. Hoffman said the value of the property has dropped 50%. Mr. Hoffman said he does not know of any new projects coming into the area. Mr. Hoffman said he is committed to the project but needs to roll with the circumstances.

Mayor Huber said the first council meeting in June will be very full, and suggested putting this back on the agenda for the second meeting in June. Mr. Hoffman said he was fine with that.

Councilmember Krebsbach expressed her concern that legal counsel does not get this information until the Friday before the meeting.

Councilmember Krebsbach said she will not be here, but if she were, she would approve this.

Councilmember Schneeman moved to table this discussion to the June 16th City Council meeting.

Councilmember Duggan seconded the motion.

Ayes: 4

Nays: 1 (Councilmember Vitelli)

Councilmember Vitelli said he voted against this as he would support a 24 month extension and would have preferred to vote on this tonight.

Councilmember Krebsbach said they are a reputable company and she was fine with the 24 month extension, and spoke about her concern that legal counsel gets this information so late and does not always have sufficient time to address changes.

**PUBLIC HEARINGS: 3.2 MALT
BEVERAGE AND WINE
LICENSES
LICENSE REQUEST**

Council acknowledged memos from City Clerk Swanson regarding applications for renewals of the following liquor licenses:

- On Sale Wine and 3.2 Malt Liquor Licenses for Sage Market and Wine Bar
- On Sale Wine and 3.2 Malt Liquor Licenses for Tommy Chicago's Pizzeria
- Off Sale 3.2 Malt Liquor License for SuperAmerica (Highway 110 and Mendota Heights Road)
- On Sale 3.2 Malt Liquor License for the Par 3 Golf Course

Mayor Huber opened the public hearing. There being no questions or comments from the audience, Mayor Huber called for a motion to close the public hearing.

Councilmember Duggan moved to close the public hearing. Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

Councilmember Duggan moved to approve license renewals for the On Sale Wine and 3.2 Malt Liquor License

for Sage Market and Wine Bar; On Sale Wine and 3.2 Malt Liquor Licenses for Tommy Chicago's Pizzeria; Off Sale 3.2 Malt Liquor Licenses for SuperAmerica (Highway 110 and Mendota Heights Road); and On Sale 3.2 Malt Liquor License for the Par 3 Golf Course.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

**PEDESTRIAN ACCESS IMPROVEMENT
DODD ROAD & HIGHWAY 110**

Public Works Director John Mozzarella said for the past several months, staff has working on assessing the feasibility of pedestrian improvements at Highway 110 and Dodd Road. SRF Consulting Group has been retained to assist in preparing this feasibility report. Mr. Matt Hanson presented the findings of the final report.

Mr. Hanson said he was before the council on April 21st to present a draft copy of the report. Mr. Hanson went through a few revisions that were made to that report.

Mr. Hanson spoke of the three options that were looked at: A) on grade improvements, B) pedestrian underpass, and C) pedestrian bridge.

A public open house was held on April 15th that was hosted by Mr. Mazzitello and SRF. All those comments were presented to the council.

Mr. Hanson said SRF consultants observed pedestrian activity at the intersection on May 2nd, counting the number of times between 10:00 am and 4:00 pm people were crossing the intersection. This study was done to get a baseline of activity of those walking or on bicycle. During that 6 hour period of time, 131 crossings were made.

Councilmember Krebsbach asked why the numbers are higher than expected. Mr. Hanson said it was higher than expected based on some background that was observed previously at a different location, concluding that a suburban intersection would not necessarily have this much activity. Higher than expected probably falls into the fact that there is retail development very close.

In addition, the city held a recycling day activity in the area on May 2nd.

Councilmember Krebsbach asked if this intersection is not a typical suburban highway intersection but more of a street intersection. Mr. Hanson said it is hard to classify especially with pedestrian movement like this, and it is their opinion that this has been a higher activity than was typically seen.

Councilmember Schneeman said because there have not been many accidents and fatalities that may have made the consultants think there would not be this much traffic. Mr. Hanson said that is a very good point, and they did research on accidents and did not find any.

Councilmember Duggan said the report does conclude that MnDOT would be unlikely to be supportive of expensive changes in that area. Mr. Hanson said when city staff and SRF met with MnDOT, MnDOT was very supportive of studying intersections and some specific improvements depending on scale and costs.

Councilmember Duggan asked if there was any particular reason the study was stopped at 4:00. Mr. Hanson said that was just a number that was decided on as they had to stop at some point.

Mayor Huber said he understands that the report is saying that the tunnel is a difficult one to pursue as there are engineering challenges. Mr. Hanson said some of the challenges include an existing gas line going through, having traffic diverted, and elevations.

Mayor Huber talked about the overpass costing \$4 million, with additional costs related to inflation and aesthetic treatments. Mr. Hanson said the pedestrian bridge would allow traffic to remain as it is during construction, so there would be some savings there. Mr. Hanson said they have tried to be fairly factual but this study is very conceptual at the same time.

Councilmember Duggan asked Mr. Hanson where an optimal efficient overpass would be located. Mr. Hanson said it would be at the intersection, but a pedestrian bridge

would require construction and maintenance and the intersection would not accommodate a bridge so close and said the best place would be about 900 feet to the east of the intersection as is on the plan at this time.

Mr. Mazzitello talked about some funding sources and said the Metropolitan Council will be calling for solicitations in June for transportation projects. There are two categories where funds are available: 1) Transportation Enhancement Program (pedestrian and bicycle rest stop type projects), the cap on this being \$1 million project, and 2) Surface Transportation Program fund (actual highway and roadway projects), the cap on this fund is \$5.5 million per project. The competition in both of these categories is fierce. There is about \$76 million of funding available combined between the two programs.

The Transportation Enhancement Program fits what the city is trying to do as a pedestrian-oriented program, however it is capped at \$1 million.

The surface transportation program has a larger cap but the city would be competing against projects like I-494 and Highway 169, and so a pedestrian overpass in this program probably would not stand very good odds.

Mr. Mazzitello said if the city were to be awarded the \$1 million grant in the Transportation Enhancement Program the city would be obligated to provide a 20% match and any costs over and above the grant amount. The city would then have to demonstrate in the application where the rest of the money would come from.

Councilmember Schneeman asked if there is any money through Dakota County, the DNR, and other entities. Mr. Mazzitello said staff can certainly research funding sources through the county and direct appropriations from legislature from Rep. Hanson, who is very engaged in this project. There are also a number of funding sources in SRF's report.

In order to attain a viable score with the Met Council, the city would have to be able to say those funds are secure for the city's portion of the project. The application needs to be submitted by June 15th.

Councilmember Schneeman said she was very disappointed as she was very excited about this project and she thought there was funding available. She did not know it had to be all in place before going to the Met Council. Mr. Mazzitello said he recently attended a meeting with Met Council, where the Met Council outlined the application process. The City of Mendota Heights can certainly apply saying that it is their intention to procure funds from the county and from the state legislature and other sources. If none of these funds are secured, the city will not score as high.

Mayor Huber said one option would be to accept the report and talk about the at grade improvements, how would the enhancements look, and how would the city pay for it. The council could talk about this and do some active planning on this over the next six to eight months.

The second option would be to go with the bridge and make an application. The city would have to acknowledge that at this time, there are no funds secured for this application, and would have to indicate where the possibilities of finding those funds are, and can use all the information gathered by the study for future applications. Then the city could wait to see what the bonding bills will look like in next year's sessions.

Mr. Mazzitello said the Met Council application process is every two years.

Councilmember Schneeman said she does not want to go with the at grade improvements when maybe in two years the city can attain the funding for the bridge.

Mayor Huber said the city would have to come up with a lot of money to fill the gap between the grant and the total cost, and the city may have to get funding from some bonding on the state level.

Councilmember Schneeman said once the city applies and gets turned down, they may have some standing. Mr. Hanson said that could be true.

Councilmember Duggan said he likes the at grade improvements, and in going forward, the city should show that the tunnel idea had been researched.

Councilmember Duggan said he would like to see how many people use pedestrian bridges in the metro area.

Councilmember Duggan said he would not support a \$5 million project and as well as the additional 10% or \$1 million more. He said he sees this as a luxury and in this economical time, he does not believe the residents would like this. Councilmember Duggan asked if there are funds that may be available by applying for the at grade improvements. Mr. Mazzitello said the at-grade improvements as proposed would be eligible for grant money under the Transportation Enhancement Program.

Councilmember Duggan suggested that Mr. Mazzitello keep as much documentation of this process as possible for future use making an application.

Councilmember Krebsbach said she believes the first option is to apply for the at grade improvements from Met Council and go with the moderate level. The best solution ultimately will be both the intersection improvements and the pedestrian overpass as people will also cross at the intersection. Councilmember Krebsbach said the city should then look for bonding for the pedestrian bridge.

Councilmember Krebsbach said there are regular community crossings where two state highways meet, and this is not your typical suburban crossing, and would hope the Met Council and the state legislature would take a closer look at this. With the development of Mendota Plaza, there will be a need to cross over that will become stronger.

Councilmember Vitelli said the city should first look at what's a good idea rather than where the money will come from. The money comes from taxpayers and because of that, the city should focus on what option makes the most sense. The tunnel would be ruled out immediately as it costs too much and would be very complicated to build, as well as being a safety concern. People would still cross at the intersection.

Councilmember Vitelli said the bridge costs taxpayers way too much and he would not ask taxpayers to spend money on a bridge that costs \$5 million. There are a lot of better things to spend money on.

Councilmember Vitelli said another negative about the bridge is that it is too far from the intersection and people will still cross at grade level.

Councilmember Vitelli said the city should examine some improvements at the grade level as they seem to make sense to him. Councilmember Vitelli said he would like staff and the consultants to give some line items on the at grade improvements, giving Mr. Mazzitello some direction on getting information on funding options at the state and federal level.

Councilmember Schneeman said safety is the real issue, and her point is that if there will be money available, the city should get it as well as someone else. Councilmember Schneeman said Councilmember Krebsbach's suggestions would be the best.

Councilmember Schneeman said the overpass would unify the city and serve as a safer way of bicycle travel for children.

Mayor Huber suggested that the Council meet with Rep. Hanson and Metzen to see what the likelihood of the application approval would be.

Councilmember Krebsbach asked Mr. Hanson what the services for \$7,000 would entail, and if those documents prepared could be used for future applications. Mr. Hanson explained how they would help with preparing the application, and the documentation would be valuable information.

Mr. Mazzitello said the same procedure is used in the application process for either work that is chosen, such as the at-grade, the tunnel or the bridge. Mr. Mazzitello said the application is an approximately 50-page document and contains narratives to questions and checklist items and exhibits.

Councilmember Duggan talked about the work that was done at The Village and the importance of documentation on record in regards to the intersection at that time.

Councilmember Duggan moved to accept the Final Feasibility Report for Pedestrian Access Improvements at the Intersection of Dodd Road (TH149) and TH 110. Councilmember Schneeman the motion.

Ayes: 5
Nays: 0

Councilmember Duggan moved retain the services of SRF to make application on behalf of the City of Mendota Heights, approving the award of DCN2 in the amount not to exceed \$7,000 to SRF Consulting Group for assistance in preparing an application package. Councilmember Schneeman the motion.

Councilmember Vitelli said he supports this based on the findings of Mr. Mazzitello that the level of effort would be the same for any of the three options, in that 70 hours at \$100 per hour is acceptable.

Councilmember Krebsbach said she also supports this with the finding that any research on this will prove valuable at a later time should the city decide to apply for more grants.

Councilmember Duggan asked if this is a privileged document or a public document, so that a copy of it can be sent to MnDOT in support of the processes. Mr. Mazzitello said staff intentionally received extra copies from the consultant in the event one will have to be sent to Rep. Hanson's office or the Met Council. This is an open and public document. Councilmember Duggan said he will make some changes to the document and let staff know what they are later.

Councilmember Schneeman said the report was good and she enjoyed reading it.

Ayes: 5
Nays: 0

ST. THOMAS ACADEMY
ROGERS LAKE MONITORING

Tony Kinsley, teacher of Environmental Studies at St. Thomas Academy, said his students have been monitoring Rogers Lake for several years. Four of his

students were present and gave an update on the findings of their annual water quality assessment of Rogers Lake.

Eighteen groups of students collect data with weekly testings in fall and spring, conducting nine different chemical tests. These reports are finding that the lake is in very good condition.

The students found that ways to keep the lake healthy is to continue using natural buffer zones and mineralize fertilizer use in lawns. In addition, residents should sweep their sidewalks and driveways away from the streets so that runoff will not take those fertilizers into the storm sewers which in turn go into the lake.

Councilmember Krebsbach asked what the temperature of the lake is. Fall temperatures range from 17°C to 0 °C.

Councilmember Krebsbach said there has been a lot of talk about the weeds in Rogers Lake and asked if any of the tests show rotting weeds. This could possibly be the reflection on phosphates and nitrates or the total solvents as even and the studies done by the student do not measure this.

Councilmember Duggan asked if this information can be put in the city's website.

Mayor Huber said this testing has been done for a number of years, and applauded Mr. Kinsley and all the students for their hard work, and said without a doubt over the last couple of years there has been a much higher interest in the lake. Mayor Huber said he attributes a lot of this interest to the work that the students do, and that this class should take a lot of credit and pride in what they are doing and in acting as an agent of change.

MASSAGE THERAPY LICENSING

Ms. Swanson said this ordinance has been created at the direction of the council at the last meeting when the ordinance was adopted allowing therapeutic massage enterprise in certain zoning districts. At that time, council had some concerns about the licensing and investigations of all employees versus therapists. Ms. Swanson said this ordinance will make all therapists and owners of the enterprise be licensed. Hours of operation have been

included and are subject to council discretion. This will require that the enterprise owner is licensed whether that person is a massage therapist or not. This ordinance does not require that receptionists or clerical workers be licensed.

Councilmember Krebsbach said there is nothing in the ordinance that addresses the fact that the therapists be licensed at a level to qualify for medical reimbursement. Ms. Swanson said she did not address this in the ordinance as it is subject to the policies of insurance companies. Councilmember Krebsbach said one of the points that Brown College was approved for a massage therapist school was that insurance benefits would qualify. Councilmember Schneeman said the city can't control the insurance companies. Councilmember Duggan said it would be hard to control or organize that. Councilmember Krebsbach said it would be the licensing level. Mayor Huber asked then what the threshold would be. Ms. Swanson said this proposed ordinance requires 100 hours of training, which is standard.

Mayor Huber said he was fine with the 100 hours. Councilmember Schneeman said she was fine with that as well.

Ross Fefercorn, applicant, said he said there are many different kinds of insurance coverages, many which are not the same, and it would be difficult to track. Mr. Fefercorn said he believes 100 hours of training will work for many insurance companies.

Kimberly Lendt, owner of Relax-n-Tan, a prospective tenant in the Village, said one of her therapists is able to file insurance claims.

Councilmember Vitelli asked Chief Aschenbrener if he was comfortable with this wording on the licensing. Chief Aschenbrener said he does not see any issues.

Councilmember Vitelli moved to adopt Ordinance No.423, "AN ORDINANCE AMENDING TITLE 3 OF THE CITY CODE, ADDING PROVISIONS FOR THERAPEUTIC MASSAGE ENTERPRISES AND THERAPEUTIC MASSAGE LICENSING, AND AUTHORIZE

PUBLICATION OF AN ORDINANCE SUMMARY
PREPARED BY THE CITY ATTORNEY”.

Councilmember Schneeman seconded the motion.

Councilmember Duggan noted some primary changes that he had given to City Attorney Tami Diehm. Mr. Sedlacek said the sentence that reads “to the extent they reveal private information, they will be disclosed only to the extent that is necessary due to required license investigations”, and will be replaced by “to the extent they reveal private information, such will be disclosed only to the extent that is necessary due to required license investigations”.

Councilmember Duggan said he also asked if a definition was needed under “everything but licensing”. Ms. Diehm asked if the question was to add the definition “licensee”. Councilmember Duggan said that was what his intent was.

Councilmember Krebsbach said she will vote against this as the license does not address the issue of standards for qualifying for insurance benefits.

Ayes: 4

Nays: 1 (Councilmember Krebsbach)

Councilmember Krebsbach said it should be noted that the applicant does have a therapist that would qualify.

COUNCIL COMMENTS

Councilmember Schneeman shared her congratulations to all the graduates and wished them all a happy and safe graduation.

Mayor Huber said the Council, at their last meeting, adjourned to a closed session for discussion of land acquisition and was unsuccessful in that effort.

Mayor Huber said Cray Research will be moving to St. Paul and talked about cities degrading each other to get business into their cities. Mayor Huber said the City of Mendota Heights wishes the best for Cray Research wherever they may go and is very sad to see them leave the city.

Councilmember Krebsbach said Mayor Huber should send a letter to Cray Research saying that they were a valued

resident, and that it is important that the city retains relationships with businesses. Councilmember Krebsbach said she has been encouraging the council over a number of years to take a good look at the industrial park and how the future of the park will look.

Councilmember Duggan said he wondered why United Properties did not work with Cray on looking at extra space. Mayor Huber said the city received a call from United Properties seeking financial help. Mayor Huber said the city has never participated in doing this type of activity. Mayor Huber said he is not going to interfere with what is going on between the tenant and the landlord. Councilmember Duggan said he supports Councilmember Krebsbach's suggestions on having a task force and believes the Council should ask Cray if they do want to work with staff and someone from the council asking what the challenges are and what are they facing so at least the council would be in the know.

Councilmember Krebsbach said there were TIF districts, something was being presented to the council all the time and it has been working just fine. The city is now facing losing a major tenant and the council needs to be aware of what is going on in the industrial park. Councilmember Duggan said he does not see it being a huge change as the employees who live in Mendota Heights will probably stay in the city and will spend money in Mendota Heights. He said he would like to have Cray here, but obviously the economy is playing a factor, and would like to have a sense of some of the other major players out there.

Councilmember Krebsbach said the council needs to make it clear that the Mendota Heights industrial park is not just sitting there waiting for a city to come court those tenants.

Councilmember Duggan said he is receiving phone calls regarding the progress at the new fields at Hagstrom King and the improvements at the Friendly Hills ball park.

Councilmember Duggan said he also received a call from someone very upset about the parking on Pagel Road and it turns out that Heart to Heart Homes is building their second or third home for Memory Care, and said the council has no control over this. This process took out an existing home

and built a new one. Councilmember Duggan said he visited it today and was told it would be operational in a few days. Councilmember Duggan said this is a beautiful location and a huge improvement to the whole neighborhood.

Councilmember Schneeman asked Councilmember Duggan about the June 6th school district anniversary celebration. Councilmember Duggan said the committee is challenged but is still working on it, and believes there will be a fun parade and does not know whether there will be fireworks or not. Progress with the “Celebrate Mendota Heights Parks” has been on-going and should be a lot of fun.

Councilmember Duggan said St. Josephs’ parish is preparing for their 60th Anniversary.

Councilmember Vitelli said there is also the St. Josephs’ All Class Reunion at exactly that time. The 50th Sibley High School Class Reunion also at that exact time.

Councilmember Duggan said there are still openings for the 5K Run, and the committee is also looking for people with antique cars and costumes are to participate in the parade. There is no charge except a small fee for the 5K Run.

Mr. Mazzitello said the Minnesota Department of Transportation is working on the Big Rivers Trails along the river at the bottom of the bluff in the vicinity of I-35E. There will be improvements made to the storm water system, and will be on-going through September, Monday through Thursday, and the Big Rivers Trail will remain open evenings and weekends. The exit ramp from southbound I-35E to Highway 13 will be closed starting June 15th for duration of two weeks. The appropriate detour signs will be in place.

Mr. Mazzitello announced that this week is National Public Works Week and encouraged people to go by the public works building and thank staff for the work they do every day.

ADJOURN

There being no further business to come before the Council, Councilmember Duggan moved to adjourn the meeting.

Councilmember Krebsbach seconded the motion.

Time of Adjournment 8:50 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

John J. Huber
Mayor