

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, July 7, 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

Mayor Huber added 9.f. to call a public hearing that Ms. Diehm has requested.

Councilmember Duggan moved adoption of the agenda as revised.

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 June 16, 2009 as corrected.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

CONSENT CALENDAR

Councilmember Duggan moved approval of the consent calendar as presented, pulling items b, c, i, j, and l for further discussion, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the NDC4 Meeting Minutes and Agenda.
- b. Acknowledgement of Building Activity Report for June, 2009.

- c. Acknowledgement of ISD 197 Request to Utilize City Council Chambers and Video Cable Cast Equipment for Monthly Broadcast of School Board Meetings.
- d. Authorization for Purchase of 2010 Mack Dump Truck.
- e. Authorization for Purchase of Rough Mower for Par 3.
- f. Acceptance of Withdrawal of Planning Case No. 09-21: David Lucente, 2086 Patricia Street, Variance for a Garage Addition.
- g. Acceptance of Retirement from Tom Knuth and Promotion of Bobby Crane to Senior Engineering Technician Position.
- h. Acceptance of Resignation of Sam Kuchinka and Authorization to Begin Hiring Process for Civil Engineer 1 Position.
- i. Approval of Phased Retirement Request by Guy Kullander, Operations and Special Projects Coordinator.
- j. Approval of Request for Permission to Alter Landscaping in City Owned Right-Of-Way at Wachtler Avenue Between Ridge Place and Highway 110.
- k. Adoption of Resolution No. 09-50, "A RESOLUTION ACKNOWLEDGING DONATION OF \$500.00 IN SUPPORT OF DEDICATION CEREMONY HELD JUNE 25TH, 2009 AT HISTORIC PILOT KNOB SITE, TO THE CITY OF MENDOTA HEIGHTS."
- l. Adoption of Resolution No. 09-50: "RESOLUTION AMENDING THE CONDITIONAL USE PERMIT FOR AN AIR-SUPPORTED STRUCTURE AND ACCESSORY BUILDING AT 949 MENDOTA HEIGHTS ROAD".
- m. Adoption of Resolution No. 09-52: "RESOLUTION ORDERING PERPARATION OF FEASIBILTY REPORT FOR ESTHER LAND, JOHN STREET, MIRIAM STREET, SIMARD STREET, SPRING STREET, VALLEY LANE AND VIEW LANE.
- n. Approval of Contractors List, dated July 1,2009.
- o. Approval of the List of Claims, dated July 2, 2009, totaling \$388,653.65.

Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

Councilmember Schneeman asked to have item "b" pulled for discussion to mention that the economy is affecting Mendota Heights also and that the city is doing well

because of its conservation of finances. As of this year to date, the building activity report shows that 2009 is down from 2008 by more than 50%.

Councilmember Schneeman moved to acknowledge the Building Activity Report for June, 2009.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

Councilmember Krebsbach asked to have item “c” pulled for discussion, saying that the school district is certainly welcomed here but she would like to know how this request came about. Normally, the chambers are only kept for Mendota Heights city business, and that the council previously denied a similar request from the City of Lilydale for holding their city council meetings here.

City Administrator Jim Danielson said the school district contacted Guy Kullander who in turn sent an email to the council members asking for feedback, and upon receiving no feedback from the council, Mr. Kullander proceeded to let the school district go ahead. This process proceeded faster than Mr. Kullander had anticipated and the school district is already planning on holding a meeting right away. The school district would like to get all of their meetings set up now and to get them on the calendar for televised meetings. The school district is currently not televising their meetings.

Councilmember Krebsbach said she does not recall opening the email, as she does not have the time to open all emails when they arrive, but there are different organizations that currently use the chambers and the conference rooms at City Hall on an open ended use.

Mr. Danielson said the council can put certain stipulations on this usage if they so desire.

Councilmember Krebsbach said she believes the city should try this for one year.

Councilmember Schneeman said it is a good idea and this is important as it would save the school district about \$175,000 if they use the city’s facilities. Sharing this equipment and the facility is a good thing.

Councilmember Krebsbach moved to approve this for one calendar year to see what impact it has on other organizations that have traditionally been at City Hall on Mondays.

Councilmember Vitelli said he believes this is a good idea.

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

Councilmember Krebsbach said the City Council Chambers is often viewed as the “living room of Mendota Heights” and encouraged residents continue to use the city hall.

Councilmember Vitelli said he wants to make sure that a staff member explains this approval to the school district so that they understand the year stipulation and to see if there are any issues or conflicts that may arise.

Councilmember Duggan asked to have item “i” pulled for discussion and asked staff to give the council a brief overview of what this means to the city in light of an instance that happened in a nearby community where there were some illegal things happening.

City Attorney Tami Diehm explained this past year, the Minnesota Legislature provided for a new “phased retirement plan” for public employees that are covered by the Public Employees Retirement Association (PERA). This law went into effect on May 23, 2009 and is a phased retirement plan that allows employees over the age of 62 to enter into a phased retirement. Previously, in order to receive retirement benefits, employees would have to terminate their employment and be un-employed for a period of thirty days with no formal or informal agreement that the employee would be returning to work at some future date. This gives flexibility to local governments that allows them to phase out an employee by entering into a written agreement that cannot extend beyond one year, and agree to the amount of time that the employee will work (a reduced work schedule) and the local government has complete discretion as to whether or not they enter into a phased retirement option or not. An employee can request a phased retirement, and the local government can grant it

on a case by case basis; that language is very flexible and gives the local government sole discretion to do so.

Councilmember Duggan asked if benefits are paid on a phased basis as well as salary for part time. Ms. Diehm said the local government does not have to pay PERA contributions. Ms. Diehm said she does not know how this applies to health benefits.

Finance Director Kristen Schabacker said benefits would be pro-rated based on the number of hours that the employee would be working.

Councilmember Vitelli asked if this program in one in which the employee can reverse their decision to terminate. Councilmember Vitelli said he asks that question for planning purposes to replace that individual. Ms. Diehm said the local government would enter into a one-year (maximum) agreement and has the flexibility to set that period of time shorter than one year. There are some caps in place, i.e. should the employee reach the age of 66, they are no longer eligible for the phased out retirement. Ms. Diehm said after a year of the plan, the employee can decide to come back to work up until the age of 66. However, the local government can place stipulations on whether the employee can or cannot return to full time, but that would most likely not be an option because of PERA pension rules. Councilmember Vitelli said it is important then, to know exactly what the employee's plans are so that the city can also let any potential employee know what they are coming in to.

Councilmember Krebsbach asked if the work duties of a particular employee can be changed during this phase out period. Mr. Danielson said he knows that Mr. Kullander is intending to retire after this phased plan as he will be 66 years old. The idea is to have him transfer out some of his duties to Bobby Crane, who is taking over Tom Knuth's position. In addition, some of these duties will be taken over by Sam Kuchinka's replacement.

Councilmember Krebsbach said she would like to take a look at Mr. Kullander's job description and that it is important to not assume that other people will be taking this work over. Part of Mr. Kullander's compensation is

based on projects that he is bringing forward and she wants to make sure that this is something that the city really wants.

Councilmember Vitelli said that Mr. Kullander should be made assured that all this discussion is not a reflection on him personally, as Mr. Kullander has been shown as being a top employee, but that this plan is new to the council and that the council needs to know how this program works.

Councilmember Krebsbach said she definitely agrees, but that the council needs to look at this job description to see how these duties will be handled. Mayor Huber clarified that the projects that Mr. Kullander brings forward do not impact his paycheck in the sense of bonus money, but it impacts how his paycheck is allocated amongst various funds.

Councilmember Duggan moved approval of the Phased Retirement Request by Guy Kullander, Operations and Special Projects Coordinator.

Councilmember Vitelli seconded the motion.

Ayes: 5
Nays: 0

Mayor Huber said item “j” has been pulled for discussion, saying that this request is to alter landscaping at city-owned property at Wachtler Avenue between Ridge Place and Highway 110.

Public Works Director John Mazzitello said Mr. John Steenberg, who is the son of the residents at 804 Ridge Place, has put forward a request to the city to clear under brush, buckthorn, box elder and ash trees that are in the undeveloped right-of-way of Wachtler Avenue between Ridge Place and Highway 110. Mr. Steenberg does the maintenance of his elderly parents’ home and the back yard is not getting sufficient light to establish turf or lawn, and some of these trees are unsightly and the buckthorn is invasive. Mr. Steenberg is asking the city’s permission to allow him to work on this right-of-way. The work would be limited to the areas of the right-of-way that are outside the 100-ft line from Valley Creek and any work that is done there would require a wetlands permit under the wetlands ordinance. Also as part of this request, Mr. Steenberg included some city assistance for grading and raising the

casting on the existing manhole that is in the right-of-way. There are utilities that run through that right-of-way. At this time, the city does not have the resources to honor this request and staff's recommendation is to grant Mr. Steenberg the permission to clear those portions of the right-of-way of underbrush and trees outside of the 100-ft wetland boundary.

Mayor Huber asked if it is clearly delineated as to where that 100-ft area is. Mr. Mazzitello said that the 100-ft area is not marked at this time, however the property corners are. Mr. Mazzitello said staff can take care of marking the 100-ft buffer area.

Councilmember Vitelli asked if there are any large trees. Mr. Mazzitello said there are some significantly sized cottonwoods, but Mr. Steenberg is not proposing to remove any of those at this time, but has indicated he may want to in the future. The trees are about 24 inches in diameter.

Councilmember Vitelli said he does not believe that they should be removed. Councilmember Krebsbach said she does not want to see any clear cutting. Mr. Mazzitello said it is not Mr. Steenberg's intent to clear cut but only to remove some dying ash trees and some box elder trees, as well as some buckthorn and underbrush. He would then like to replant that area with lower growing shrubs and maybe some new trees.

Mayor Huber said he is okay with that part of the request under the conditions that 1) Mr. Steenberg only removes what the city is in agreement with and 2) additional staff time is not being used to monitor this work. If this can all be clearly communicated so it does not show up on staff time, he is fine with some of this stuff removed. Mr. Mazzitello said staff has the plan for what Mr. Steenberg intends to do.

Councilmember Krebsbach said the agreement must also show that there will be no clear cutting done.

Councilmember Schneeman said that agreement must also show that the city is not going to be financially involved.

Councilmember Duggan moved to accept the request and grant permission to alter the landscaping, limiting the work to scrub trees, brush and buckthorn, with the exception of the area 100 feet from the normal water level of Valley Creek on either side of the creek, with the condition that Mr. Steenberg submit a landscaping plan.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

Mayor Huber asked to have item "1" pulled for discussion and asked Mr. Danielson to provide some background. Mr. Danielson said in 1994 the city council approved a conditional use permit for St. Thomas Academy to construct an air dome as a temporary field house while the academy underwent a plan to obtain funding for a permanent field house. This conditional use permit was approved for two three-year periods. That second three-year period expires in the summer of 2010. By that time, the academy needs to begin planning to construct the building now and the academy acknowledges that they are not going to be able to do that now, and are now requesting another three-year extension.

Mr. Evans, representative for St. Thomas Academy, said they have started a capital campaign, and they are trying to add a science building and a new pool to the proposed activity center, along with some other projects. Mr. Evans said the donations have slowed down significantly due to the economy. Their architects are currently working on schematic designs for the activity center and the academy is hoping to begin work on this next summer, but that will depend on the capitol campaign. The academy is asking for an extension so that they do not have to cut programs.

Mayor Huber said he has a strong concern about this. He was driving by St. Thomas and started thinking about the dome and asked the Administrator to check the file to see when the conditional permit was to expire. He questioned Mr. Danielson on it before St. Thomas Academy began the request process for the renewal, which was very unsettling to him.

Mayor Huber said the city has once in a while received a request from somebody to extend something, using Hoffman Homes as an example where they have come in

asking for an extension, and he has no problem with that because they have not broken ground yet. Then a resident had asked for an extension to his permits to build a house on Wentworth Avenue, only to have the work discontinue and the city then had to tear the partially built home down because it was a hazard.

Mayor Huber said the reality is that the academy already has one foot in on this by putting up the dome. This is not a situation where the delay of this project leaves the city in a situation that would never be approved otherwise. If St. Thomas had come to the city six years ago and asked for a permanent dome it would never have been approved. Mayor Huber said this puts the city in a very precarious situation when the city has to decide the fate of a project because the applicant cannot finish the project, and having the applicant come to the city asking for a break because they are "good for it." This puts the city in a very bad spot. Mayor Huber said he is not slandering St. Thomas Academy, but everyone is hurting from the economy, and this is no surprise. Mayor Huber said he is afraid that this will open the door for anyone who has financial difficulty to ask for slack on their projects. These are situations the city council should never get into. His opinion is that when people come before Council, Council's expectation is that they will follow through on their commitments, and that is what Council is asking St. Thomas to do.

Councilmember Schneeman asked if this particular situation will cost the city anything to extend. Mr. Evans said the fire marshal may incur a cost annually. Councilmember Schneeman said this does not seem to cost the city anything and anytime that churches, schools, and synagogues come before the city with an issue that they need help on, she has voted yes to those requests. Councilmember Schneeman said she does not like that dome either, and suggested extending this permit for two years. Mr. Evans said two years would help the school. Councilmember Schneeman said this is a good thing to do for the community.

Councilmember Vitelli said he believes that the Mayor has brought forth some good points, and suggested extending the permit for one year, which will make St. Thomas

Academy more accountable by coming back each year. Councilmember Schneeman said she would agree with this.

Councilmember Duggan said he would be in favor of renewing this on a yearly basis with a report from the fire marshal being submitted as to the safety of the existing structure, showing that the structure is safe for three years, and coming back annually with updates.

Councilmember Krebsbach said she would support a two-year extension because the school has already scheduled some programming. One year is not enough for the school to plan for their program changes. Councilmember Krebsbach said she would support two or three year extensions.

Mayor Huber said he believes that the city has allowed the school to leave the air dome up, and technically the code says it needs to come down periodically. Mr. Danielson said the code says it needs to be taken down once a year, otherwise the structure must have fire sprinklers, and air domes cannot be sprinkled.

Mayor Huber said the school has had the air dome for three years, and then the city extended another three years, and now the school is coming back for a third extension request, and the fact that the structure has not complied with the building code requirement for fire sprinklers, Mayor Huber believes that the city is not going down the right path by approving this.

Mr. Evans said the school and the city agreed that the air dome would not be used for six months out of the year, and they do not use it in the summer months. Mayor Huber said he does not recall that this would have been an acceptable option to the code. Mayor Huber said he is only asking that the dome be removed and that the school honor their commitments.

Councilmember Duggan asked when the last report was submitted from the fire marshal in relation to the air dome. Mr. Danielson said the fire marshal does not submit reports to the city, but only to the fire department.

Councilmember Duggan requested that this request come back to the council at the next meeting with a report from the fire marshal telling what the status and condition is with the air dome. The council can then base their decision on what this report shows and at the same time, ask the academy to give some information on the extent of use of the air dome and the impact of the loss of the air dome in relation to their space.

Councilmember Vitelli said he will not support any approval that goes beyond a year in order to require St. Thomas Academy to come before the council each year with their updates.

Councilmember Krebsbach said she would like to have updates on the verification of the usage and a report submitted from the fire marshal.

Councilmember Duggan moved that the city council adopt a resolution allowing St. Thomas Academy to use the air dome through August, 2011 (which extends the current permit one additional year), stipulating that the city council receive a report from the fire department as to the condition of the dome, and if that report is negative, that the resolution is turned around, and that secondly, the academy has anticipated replacing it with a field house on fairly limited space, and that the council is provided with the usage of the air dome for a six month period.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

Mayor Huber said he has been asked by River Bluffs Village to make an announcement on an upcoming event:

- Friday, July 10th, 7:30 a.m., Pool and Yacht Club, Dane Smith (President of Growth and Justice) will speak on Public Investment in Minnesota People. RSVP by July 8th to Jessica Hageman at www.dartsone.org.
- River Bluffs Village membership is available to all 55+ residents in Lilydale, Mendota, Northern Mendota Heights and Sunfish Lake.

HEARING: VISITATION CONVENT
BOND REFUNDING

Ms. Schabacker said Visitation School is requesting refunding of bonds that were originally issued for classroom additions. Doing this refunding will extend out

the maturity of these funds. Council needs to hold a public hearing this evening and to take care of the fee that the city will charge for doing this refunding.

Mayor Huber opened the public hearing.

Richard Davern, Director of Finance and Operations at Visitation School, said the school appreciates the time that the city will take on this refinancing, which will give the school the opportunity to pay less on the bonds and use that money for other school purposes.

Seeing no one else come forward wishing to speak, Mayor Huber asked 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

Ms. Schabacker said she recommends a flat \$500.00 fee be charged to the school for refinancing of the bond.

Councilmember Duggan moved adoption of Resolution No. 09-53: "RESOLUTION AUTHORIZING EXECUTION OF AN AMENDMENT TO NOTE". Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

ST. THOMAS ACADEMY BOND REFUNDING

Ms. Schabacker said St. Thomas Academy is requesting refunding of bonds for the St. Thomas Ice Arena. This is preliminary approval as they are still working out some final matters.

Ms. Schabacker said this also includes some previously taxable debt as part of their refinancing and they will be back one more time for final approval.

Mayor Huber asked if this public hearing will be closed afterwards or will it be continued. Ms. Schabacker said this public hearing should be closed and not continued.

Mayor Huber opened the public hearing.

Richard Miller, CEO and Senior Vice President of Wells Fargo Public Finance, said this is not a debt of St. Thomas Academy, but it is the debt of a non-profit corporation that was formed by the parents to build this facility on the property. The parents raised a considerable amount of money to fund this arena so that it was not the obligation of the school. When the debt is paid off, the building will revert to the school at no cost. The parents merely lease the land from the school and the building is a revenue based facility. The facility has a replacement value of \$7 million and the school is proposing that the bonds be refunded \$2,915,000 and the term extended for better cash flow and flexibility to maintain the building.

Seeing no one else come forward wishing to speak, Mayor Huber asked for a motion to close the public hearing.

Councilmember Schneeman moved to close the public hearing.

Councilmember Vitelli seconded the motion.

Councilmember Krebsbach asked what the name of the non-profit organization is. Mr. Miller said it was "St. Thomas Ice Arena".

Ayes: 5
Nays: 0

Ms. Schabacker said they will be back one more time and the council can decide the fee this evening. The request is similar to the Vistation request for refunding, and she recommends charging a \$500 flat fee.

Councilmember Krebsbach moved *Resolution No. 09-54*: "RESOLUTION RECITING A PROPOSAL FOR A RECREATIONAL FACILITIES PROJECT GIVING PRELIMINARY APPROVAL TO THE PROJECT PURSUANT TO MINNESOTA STATUTES, SECTION 469.154 AND AUTHORIZING PREPARATION OF NECESSARY DOCUMENTS (ST THOMAS ICE ARENA PROJECT)" and a fee of \$500.

Councilmember Duggan seconded the motion.

Councilmember Krebsbach asked for clarification on what is being voted on. Ms. Schabacker said the bond attorneys will be come back with the final resolution for the

refunding of the bonds. This is just for preliminary approval to authorize preparation of necessary documents.

Ayes: 5

Nays: 0

HEARING: VACATION OF HIAWATHA AVENUE R-O-W

Assistant to the City Administrator Jake Sedlacek presented a request to vacate a portion of right-of-way perpendicular to Hiawatha Avenue. This is a platted unused right-of-way that is known as Eugenia Avenue, and is part of the Cherokee Heights Subdivision of 1924. This matter has been discussed at length at other meetings, and the benefit of that discussion was to revisit the process that is used for vacating unused right-of-ways. Staff has turned to the Minnesota League of Cities in seeking guidance in this matter.

Mr. Sedlacek said the process that the city uses to consider a vacation of a right-of-way is that it may be initiated in one of two ways: 1) request of the council to hold a public hearing with a 4/5th vote, or 2) requested by a majority of land owners, which is the case in this situation.

Mr. Sedlacek said this vacation has been petitioned by surrounding landowners, that petition has been submitted to the city council. Mr. Sedlacek said staff is now requesting a public hearing to consider this vacation. This vacation needs to be passed by the majority of the city council, not necessarily by a 4/5th vote, and it needs to be found to benefit the community.

Councilmember Duggan asked if this parcel has been verified with Dakota County records. Mr. Sedlacek said Dakota County will react to what decision the city makes as the city is the landowner. Mr. Sedlacek read the legal description of this property. Councilmember Duggan asked if there have been any changes to this area submitted to Dakota County. Mr. Sedlacek said staff is not aware of any changes.

Mayor Huber said the request is for the northern 15-ft and asked for verification that adjoining property owners will receive this land back.

Councilmember Krebsbach asked about any utility easements. Mr. Sedlacek indicated that the southerly 15 feet of right-of-way will be retained for utilities and access.

Councilmember Duggan asked for identification of the six houses that are involved in this, and the four houses that are agreeing to this. Mr. Sedlacek indicated these homes. Councilmember Krebsbach said she will support this but is in no way influenced by Mr. Libra's memo of April 17th, where he refers to comments by residents of Sutcliff as this is a separate issue, and does not agree on the statement of the "bogus issues regarding green space". Councilmember Krebsbach said she will make a determination on this case based on the merits of that particular parcel but does not agree with this comment as it relates to the other issue before the council.

Councilmember Duggan asked if the notification requirement is 100-ft or 350-ft. Mr. Sedlacek said the guidance that staff received from the statute and deciphered by the Minnesota League of cities is that notice is to be sent to all impacted parties, which can be a very vague term, therefore staff provided notification to everyone in the Cherokee Heights Subdivision and all parcels along Sutcliffe, with notice also going to residents along Miriam and Simard.

Councilmember Duggan said if all the materials are true and valid, he supports this vacation and wants to make sure that the city has done everything that is legally and properly correct. Mr. Sedlacek assured the council that all steps were reviewed by staff and the City Attorney.

Mayor Huber opened the public hearing.

Alysa Troje, 574 Hiwatha Avenue, said she is available for any questions.

Councilmember Krebsbach said she sees this as a separate issue from other vacation requests and does not agree with the statements in the memo of April 17.

Mr. Libra thanked the city staff and city council for their patience and consideration of this request and addressed some questionable lot line placements.

Seeing no one else come forward wishing to speak, Mayor Huber asked for a motion to close the public hearing.

Councilmember Schneeman moved to close the public hearing.

Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

Councilmember Duggan moved adoption of Resolution No. 09-55, "A RESOLUTION VACATING A PORTION OF STREET UPON A PETITION OF A MAJORITY OF ABUTTING LAND OWNERS."

Councilmember Schneeman seconded the motion.

Councilmember Krebsbach said the motion should reflect that there is agreement from 100% of the abutting landowners.

Ayes: 5
Nays: 0

Councilmember Vitelli asked who is responsible among staff to contact Dakota County on the change in the property. Mr. Danielson said Nancy Bauer is the staff person who contacts the county with this. Councilmember Vitelli asked that Mr. Danielson make sure this happens.

Councilmember Schneeman complimented the neighbors in this area for working together and working it out.

CASE NO. 09-22, WATSON
1327 DELAWARE AVENUE
VARIANCE / CUP

Mr. Sedlacek reviewed Planning Case 09-22, which is a request for a variance and a conditional use permit for detached garage located at 1327 Delaware Avenue.

The owners of the property currently have a single car detached garage that they are not comfortable using as it is in disrepair. Mr. Sedlacek said city code allows for detached garages up to 750 sq. ft. with a conditional use permit but does require a 10-ft setback from the side yard lot line. Mr. Sedlacek noted that in this part of town, it can sometimes be difficult situation to meet that condition.

The current garage sits about 2-ft from the lot line and the applicants are proposing to create a two car garage of 720

sq. ft., bringing the structure about 2'6" from the lot line at its closest point. The proposed garage fits within the standards and will require the variance with the hardship being limitations of the placement of the garage due to a power line and easement, as well as the topography of the land.

The Planning Commission heard this case on June 23 and held a public hearing. There were just a few questions for the applicant concerning the exterior materials of the proposed garage as well as asking the applicant to prepare a better plan showing the style of the garage.

There were no comments heard at the public hearing and the Planning Commission voted to recommend approval of both the variance and the conditional use permit based on the findings that the site topography and the existing power line limits the applicant's ability to meet the required 10-foot side yard set back, that the proposed 2'6" setback will lessen the nonconformance, that the setback will not create drainage and green space concerns for the neighboring property and that the proposed structure is consistent with the intent of the conditional use permit.

Councilmember Duggan asked what the significance of the clause "will not affect the green space" is. Mr. Sedlacek said this applies to the fact that the applicant does not want to further impact drainage and cause significant runoff to the south, and that this building will not impact the existing open space area behind the garage. Councilmember Duggan said the language should be deleted on the open space as the language that says that the drainage will not be affected is all that is needed.

Councilmember Krebsbach asked who is verifying that this will not impact the drainage to the neighbors. Mr. Sedlacek said Mr. Mazzitello has looked at the plans and can comment on this.

Patrick Watson, 1327 Delaware Avenue, explained how the property was eroded. He would like to install drain tile and create a natural rain garden along the garage area.

Councilmember Krebsbach asked who is doing the engineering. Mr. Watson said he is doing that work.

Councilmember Krebsbach asked who has signed on off on this showing this is an actual improvement. Mr. Watson said it was his understanding that he needed to address drainage in his proposal and he felt this was the most appropriate way to do it.

Mr. Mazzitello said he reviewed the plans and found that this plan will improve the drainage with respect to their neighbor and does not believe that the applicant will need a professional engineer to do the design. Staff will review the final plans.

Councilmember Duggan asked if Mr. Watson would be comfortable to include in the resolution that the plan must be consistent with the city engineering standards regarding drainage. Mr. Watson said he was comfortable with that.

Councilmember Schneeman asked if the neighbor is happy about this new addition and how they will be affected by the drainage. Mr. Watson said they were.

Mike Sirek, 45 Preserve Path, West St. Paul, asked if the drainage will be coming from the roof only. Mayor Huber said that was correct.

Councilmember Krebsbach moved adoption of Resolution No. 09-56 “ A RESOLUTION APPROVING A 7.5 VARIANCE TO THE SIDE YARD SETBACK AND A CONDITIONAL USE PERMIT FOR DETACHED GARAGE AT 1327 DELAWARE AVENUE”. Councilmember Schneeman seconded the motion.

Ayes: 5
Nays: 0

CASE NO. 09-23, HOLY
FAMILY CATHOLIC CHURCH
1960 LEXINGTON AVENUE
CONDITIONAL USE PERMIT

Mr. Sedlacek reviewed Planning Case No. 09-23 which is a request for a conditional use permit to construct an accessory structure at 1960 Lexington Avenue.

The applicant is proposing to construct an accessory structure for the purposes of storage on the site. The applicant had previously removed a fenced in area that was used for a play area. The accessory structure is proposed to be 26' x 38' (988 sq. ft.). Churches are a conditional use in the residential zone and the property is zoned R-1.

The structure will be single story with three sets of double doors on the end which faces towards the church and a single service door that faces the parking lot.

The Planning Commission discussed this case at their June 23rd meeting and one of their primary concerns is that this will not be used as a garage. The applicant had indicated at that time that they are going with the three double doors so that the structure will not look like a garage and noted that the use of overhead garage doors would have been more cost effective. There was also some concern about the treatment of the exterior materials and the applicant replied that the building will be finished in a steel vinyl lap siding which is what is currently being installed on the church along the back.

The public hearing was held at the Planning Commission meeting and there were no comments. The Planning Commission voted to recommend approval of the conditional use permit with the proposed findings:

1. The proposed structure will not have a detrimental affect on the health, safety, welfare of the surroundings land and community.
2. The accessory structure will not influence traffic conditions or parking facilities on adjacent streets.
3. The proposed use is consistent with the general purpose and intent of the zoning code and comprehensive plan.
4. The accessory structure will not seriously depreciate the surrounding property value.

The Planning Commission did request that the applicant provide more screening around the building to protect from Victoria Road and the adjoining driveway immediately to the west of the structure.

Councilmember Schneeman suggested making the additional landscaping as the fifth condition or finding in the resolution, as she wants to make sure that the landscaping is attended to.

Councilmember Krebsbach said she would like to see a landscaping plan for the whole area, expressing some of her concerns about the fencing. Councilmember Krebsbach

said while noting the children needed a safe place to play, the playground was not an attractive one. Councilmember Krebsbach recommended that this case be tabled until the full landscaping plan showing the new accessory structure and the removal of the existing fencing is submitted.

Edward Joseph, representing the church, said one of the playground fences is gone and the land has been slightly graded, but it does not make sense to do additional grading until the equipment is out of there. The other fence will be removed and there will be grass in that area. The building will be screened with additional shrubs and the landscaping will be done by some of the parishioners.

Councilmember Krebsbach asked what will be done with the gravel around the playground. Mr. Joseph said that will be hauled out. Councilmember Krebsbach asked if the church will be agreeable to having the gravel and mulch removed and replaced with lawn. Mr. Joseph said that will be done. Councilmember Krebsbach welcomed the new church community and asked to have an additional condition to make sure that this area is converted into lawn. Mr. Joseph said the existing mulch will be tilled into the earth and the gravel will be removed.

Councilmember Schneeman said the former owners were supposed to plant flowers in the planter by the sign and that was never done. Councilmember Schneeman asked the church to pay attention to that.

Councilmember Duggan asked that some windows be added to the accessory structure to make it feel more residential. Mr. Joseph said there is no room for windows along the front because of the doors, and the back side of the building faces the road and a wooded area. In addition, windows were not planned for security concerns. Councilmember Duggan suggested putting some on the south side or north side. Mr. Joseph said the south side faces Highway 110 and the north side faces the parking lot, and the council is already asking for additional landscaping, and therefore is not sure what the benefit of the windows would be. Mayor Huber said he is not in favor of the windows.

Councilmember Duggan said he does not see how the council can prove that the building will not be detrimental to property values and asked that this condition be stricken. Mayor Huber said he has no problem with this.

Councilmember Duggan asked what the color of the building will be. Mr. Joseph said it will be the same as what is being installed on the church and will be a sand color.

Councilmember Schneeman moved adoption of Resolution No. 09-49: "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A 998 SQUARE FOOT ACCESSORY STRUCTURE AT 1960 LEXINGTON AVENUE".

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-25, TAURINSKAS,
1220 KNOLLWOOD LANE
CRITICAL AREA PERMIT

Mayor Huber welcomed the church to the community.

Mr. Sedlacek reviewed Planning Case No. 09-25 which is a request for a critical area permit to construct a length of fencing at 1220 Knollwood Lane.

The applicant is proposing to construct a 16-ft. long section of cedar privacy fence to be 6' high and is compliant with the city code. The fencing is to be located between the two properties (1220 Knollwood Lane and 1223 Knollwood Lane) to provide adequate screening between the two homes.

The 30% open alternate board fencing would be shielded from the bluff line by the homes. The only impact to the critical area is the digging of holes for the concrete posts. The Planner has found that there will be no environmental impacts and this case was heard at the June 23rd Planning Commission meeting.

There were no comments at the public hearing and the Planning Commission voted to recommend approval of this critical area permit with the following findings:

1. The fence is necessary to screen the view from the applicant's home to the neighbor's home.
2. The proposed fence will have little or no visual impact on the critical area or surrounding property.

3. The fence will create no issues for grading or erosion.
4. The fence is proposed to have minimal impact on the land as it does not involve landscaping, painting, grade changes, soil loss or altering of the slope.

Councilmember Duggan asked if a 6' fence is normal in this area. Mr. Sedlacek said it is common in the city.

Councilmember Duggan asked if the fence will be on the property line. Mr. Sedlacek said the fence will be solely upon the applicant's property. Councilmember Schneeman said the two homes are very close where this fence is being proposed.

Councilmember Duggan asked if the neighbor is comfortable with a 6' fence. Mr. Sedlacek said staff has provided full notification to the neighbors, and has not received any feedback on this.

Councilmember Krebsbach asked if the Taurinskas live there. Mr. Sedlacek said he believes that is true. Councilmember Krebsbach said they are listed with a West St. Paul address. Councilmember Schneeman said she is sure that is their office.

Councilmember Krebsbach asked what the slope is like where this fence will be. Mr. Sedlacek shared a map depicting the slope.

Councilmember Schneeman moved to approve Resolution No. 09-58: "A RESOLUTION APPROVING A CRITICAL AREA PERMIT FOR FENCE INSTALLATION AT 1220 KNOLLWOOD LANE". Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

JAMES GREGOIRE
2452 POND CIRCLE EAST
WETLANDS PERMIT

Mr. Sedlacek reviewed Planning Case No. 09-25 which is a request for a wetlands permit to construct steps to an existing deck. Mr. Sedlacek noted that the corner of the house in this application is within the 100-ft buffer of the wetland area.

The Planning Commission heard this case at their June 23rd meeting and the only question that was presented was if the

stairs provided an additional access from the inside of the home. The applicant said that would be true, and that although the stairs will serve a convenience purpose, they will also provide safety purpose as it would be the only exit from the main level of the home on that side of the home. There were no comments heard at the public hearing and the Planning Commission voted to recommend approval of the wetlands permit based on the finding that the proposal will not result in any negative impacts to the wetlands and the request is consistent with the wetlands ordinance.

Councilmember Duggan moved adoption of Resolution No. 09-25: "A RESOLUTION APPROVING A WETLANDS PERMIT FOR THE ADDITION OF STAIRS TO AN EXISTING DECK AT 2452 POND CIRCLE EAST". Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-26, ROSGA
1745 LANSFORD LANE
CONDITIONAL USE PERMIT

Mr. Sedlacek reviewed Planning Case No. 09-26 which is a request for a conditional use permit to construct a fence that is more than 3' high within the front yard setback on a corner lot. Because the applicant lives on a corner lot, the front yard setback applies to both the sides along Stanwich Lane and Lansford Lane.

The request is to place the fence 10-ft off the property line and would they like to construct a 5' tall black aluminum clad fence that will look like wrought iron.

The Planning Commission held a public hearing at their June 23rd meeting and the only person cheerfully willing to speak was the applicant's 3 year old son who has Downs Syndrome, who the applicant is hoping to contain within this fence. The only question that the Planning Commission asked was if the 5' high fence will be enough to contain the child safely. The applicant said the 5' height was a fine option for them. The Planning Commission did not have a lot of discussion on this and agreed with the Planner's findings that the proposed fence would not have a detrimental effect on the health, safety and welfare of the surrounding properties and will not effect the traffic conditions at the corner and adjacent streets. The proposed fence was found to be consistent with the general purpose and intent of the comprehensive plan and zoning ordinance,

and that the proposed fence will not depreciate the surrounding property values. Mayor Huber asked to have the finding on the property values struck from the findings.

Councilmember Schneeman said she has no problem with this application and understands that the mother could not be here tonight. Councilmember Schneeman said that Mrs. Rosga has three children, acknowledging one of them having Downs Syndrome, and is also expecting a fourth child. Councilmember Schneeman said the fencing will look beautiful and that the property has a large back yard, and therefore she would support this application.

Councilmember Schneeman moved adoption of Resolution No. 09-60: "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A 5' FENCE WITHIN THE 30' SETBACK ON A CORNER LOT AT 1745 LANSFORD LANE".

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

DISCUSSION OF CALLING PUBLIC HEARING

Mr. Danielson said the city recently took down a partially constructed home at 594 Wentworth Avenue. There was \$21,893.32 worth of costs associated with that demolition. In order for the city to recover those costs, staff would like to assess them against the property and needs to follow the 429 process. The first step in that process is to call for a public hearing for the August 4 City Council meeting.

Councilmember Duggan moved adoption of Resolution No. 09-27, "RESOLUTION DECLARING COSTS TO BE ASSESSED, ORDERING THE PREPARATION OF PROPOSED ASSESSMENT ROLL, AND ESTABLISHING THE DATE OF THE ASSESSMENT HEARING FOR WORK PERFORMED AT 694 WENTWORTH AVENUE."

Councilmember Duggan asked if the total cost includes the costs for legal and engineering. Mr. Danielson said that is does.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

PUBLIC COMMENTS

Mayor Huber opened the Public Comments section once more, taking comments from Byron Hobbs, 1899 Dodd Road, who asked for a letter saying he could apply to subdivide his lot at some point in the future.

Mayor Huber said this is a public comment segment of the meeting, in which the council does not take action on any items but only hears concerns and gives feedback. Mayor Huber said the applicant has met with city staff on this. Mayor Huber asked how much frontage is on their property. Mr. Hobbs said it is 107' of frontage and does not front on any other street. Mayor Huber said staff has indicated to Mr. Hobbs that for this to be approved, council would need to permit a subdivision without the standard 100'ft frontage on a public street. Mr. Hobbs said he is not requesting a petition nor are they asking for approval of an application, but only that this could be attempted. Mayor Huber said Mr. Hobbs would have to go through the application process and pay the necessary fees. Mayor Huber explained to Mr. Hobbs that the city has had a long time standard of a 100' frontage and will not deviate from that standard. Mayor Huber said it would seem that Mr. Hobbs would be asking for either a deviation from the 100' rule or to create another public street that currently does not exist, and he does not recall the city ever doing such a thing unless for a large development that may come in and services are needed. Mayor Huber said these are challenges that Mr. Hobbs would need to present to the council and told Mr. Hobbs that he is free to go through the application process. Mayor Huber said the city simply cannot give Mr. Hobbs a letter as requested.

Councilmember Duggan said there is another challenge as to if Dakota County would allow a curb cut for a new street from Dodd Road, and he suspects that would not be allowed.

Councilmember Duggan said in relation to the alley, the proposal would benefit the private sale through the subdivision of the lot, and the question would then be who would pay for the street.

Mr. Hobbs said he understands all of these hurdles and understands that this is something that normally does not

happen. Mr. Hobbs said he is not asking for an application, and is not going to go forward with an application, but based on the extent of the lot, a subdivision could be attempted.

City Attorney Tami Diehm said often times, people will request a zoning letter that the city can verify what zoning district their property in is, and will direct the property owner to contact and work with city staff.

Mr. Hobbs also responded affirmatively that he intends to sell his home.

Mr. Hobbs thanked the council for their time.

COUNCIL COMMENTS

Mayor Huber reminded the audience of Dane Smith's presentation at the Pool and Yacht Club.

Councilmember Vitelli said he recently moved his parents from the CDA facility to an assisted living facility, adding that his parents have lived there for the past five years, and has been a very good experience. Having said this, Councilmember Vitelli said the city has some terrific resources in the city and that the CDA runs a tremendous facility. Councilmember Vitelli talked about a company called "Heart to Home" that owns two residences in the city, providing nursing home care for people.

Councilmember Vitelli said people are allowed to buy such a home and fix it up according to code requirements for assisted living, and the state code states that these homes can house six residents. The city would have to approve any additional residents. Councilmember Vitelli said there is a home currently on Bluebill Road and Dodd Road that could be raised and rebuilt for such a use, and talked about the wonderful owners and staff of these fine facilities.

Councilmember Vitelli said he would be interested in working on having the city allow up to seven residents to accommodate single residents and not only couples. Councilmember Vitelli said he would also like the owners of these facilities to meet with council and staff to see if somehow this could be done. Councilmember Schneeman said this type of housing is well needed.

Councilmember Schneeman said she can't find addresses on homes and encouraged residents to better post their addresses as this is a safety issue.

Councilmember Schneeman promoted the park bench program that the city has and encourages residents to participate in this program.

Councilmember Krebsbach said she had asked Mr. Danielson to give an update on OPUS and on The Village. Mr. Danielson said things are going well with OPUS, having 16 townhomes left out of their 58. OPUS is also cutting back their units by 4. Out of 61 condo units, there are only 27 left. Mr. Danielson said he heard from Ross Fefercorn that they are having a better year this year with 3 new loft condo sales in progress.

Councilmember Krebsbach said the fireworks were great and said she appreciated the support of the business community. Councilmember Krebsbach said there are also a lot of neighborhood parades, and the city may want to think about holding a children's parade on July 4th.

Councilmember Duggan said in relation to Councilmember Vitelli's comments, his sister is a trained nurse who has been working for many years with this type of facility.

Councilmember Duggan wished everyone a happy summer.

ADJOURN

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

Councilmember Duggan seconded the motion.

Time of Adjournment 9:00 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

John J. Huber

Mayor