

CITY OF MENDOTA HEIGHTS  
DAKOTA COUNTY  
STATE OF MINNESOTA

Minutes of the Regular Meeting  
Held Tuesday, August 4, 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 Schneeman moved adoption of the agenda as presented.

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved approval of the minutes of the regular meeting held on July 21, 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 j and k for further discussion, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the Minutes from the July 28, 2009 Planning Commission.
- b. Acknowledgement of the June 2009 Fire Department Report.
- c. Acknowledgement of the June 2009 Treasurer's Report.
- d. Acknowledgement of the July 2009 Building Activity Report.
- e. Acknowledgement of a memo regarding the St. Thomas Academy Airdome.

- f. Acknowledgement of the Public Safety Systems Funding Update.
- g. Acknowledgement of the Linder's Greenhouses Report.
- h. Authorization for Temporary Liquor License for Holy Family Maronite Catholic Church.
- i. Authorization for Purchase Order for Storm Sewer Repair on Chippewa Avenue and Junction Lane.
- j. Approval of Sign Permit Request for 750 Highway 110 – Mendota Plaza.
- k. Approval of Contract for Pilot Knob Phase I Overlook Construction.
- l. Adoption of Resolution No. 09-63: “RESOLUTION SETTING A PUBLIC HEARING ON AN EASEMENT VACATION AT LOT 2, BLOCK 1, MENDOTA HEIGHTS BUSINESS PARK, 4<sup>TH</sup> ADDITION.”
- m. Approval of Contractors List, dated July 31, 2009.
- n. Approval of the List of Claims, dated July 31, 2009, totaling \$194,788.59.

Councilmember Schneeman seconded the motion.

Ayes: 5  
Nays: 0

Councilmember Duggan asked to comment on item d and said he has asked staff to include 2007 as well as 2008 as they look back at numbers, as 2008 is a bit misleading, handing out a document that is easier to read.

Councilmember Schneeman thanked Councilmember Duggan for bringing this up as she had difficulty in reading the original report as well.

Councilmember Duggan referred to item l and pointed out some language changes that he suggested.

Councilmember Krebsbach referred to item j and asked Assistant to the City Administrator Jake Sedlacek how long the signs will be up. Mr. Sedlacek reviewed the sign sizes. Councilmember Krebsbach asked if there is a time limit for the big leasing sign on the former furniture store. Mr. Sedlacek stated that the “v” shaped sign can be up for three months. Mr. Sedlacek said the property owners are proposing to have the leasing office as a use of the former furniture store space. The sign is an identification sign and they propose to have the sign up as long as it is a leasing office and the city cannot regulate the content of this sign

or how long it can be up. This sign will be indicating that leasing office for the center.

Councilmember Schneeman said the pictures were not very good.

Mr. Sedlacek said the signage meets the standards that the city approved in the planned unit development.

Councilmember Krebsbach asked why the landscaping buckets were included. Mr. Sedlacek said the property owner felt it would be useful in front of the leasing office and around the temporary signage. Councilmember Schneeman said these are just samples.

Councilmember Duggan moved to approve the Sign Permit Request for 750 Highway 110 – Mendota Plaza as presented.

Councilmember Vitelli seconded the motion.

Ayes: 5  
Nays: 0

Councilmember Duggan asked to have item k pulled for discussion and said that he was not aware that the council had approved the seven rocks, and said his concern was that if the council had given general approvals to some areas, he would like to have staff bring this back for review to see what might be added later on so that the council can give their input.

Councilmember Krebsbach said this is a good idea and that they can give a comprehensive look at what has been proposed.

Councilmember Schneeman said she thought the council had that at one time. Councilmember Duggan said there was, but there were some general approvals but not specific ones.

Councilmember Schneeman moved to approve the Contract for Pilot Knob Phase I Overlook Construction.

Councilmember Vitelli seconded the motion.

Ayes: 5  
Nays: 0

## PUBLIC COMMENTS

Mayor Huber said Lambert Dirks is celebrating twenty years with the city, which is not a remarkable tenure, except for the fact that today is Lambert's 80<sup>th</sup> birthday. Mayor Huber, on behalf of himself, the city council, and city staff, wished Lambert a very happy birthday and expressed appreciation for all his years with the city.

## 2008 AUDIT REPORT

Finance Director Kristen Schabacker introduced Tom Hodnefield, who said the audit has been completed and the city's financial reports were dated and issued on June 26, 2009. The reports were reviewed in detail with management prior to the issuance and were distributed to the city council.

Mr. Hodnefield said they have not found any deficiencies that are required to be reported, noting that the auditor does not audit the internal controls or give opinions, but they have to give an understanding and note any findings. Mr. Hodnefield said they have not found any findings.

Mr. Hodnefield reviewed the reports and stood for questions.

Councilmember Krebsbach asked if there were any findings or statements acknowledging that the city staff is paying themselves ahead of schedule as was found in other cities, and to make sure there is the determination that the city of Mendota Heights has not done so. Mr. Hodnefield said their reports do not look for that type of activity. Councilmember Schneeman asked if it would be reported if someone noticed that this was the case. Mr. Hodnefield said the reports would show that finding if it had occurred, adding that there are no adjusted or corrected financial statements.

Mr. Hodnefield pointed out the street lighting fund had a decrease in each of the last four years, and that it has a fund deficiency that has accumulated up to \$43,500 roughly at the end of 2008. Mr. Hodnefield recommended that this be monitored. The sewer/utility fund has shown some decreases as well in the net asset balance and cash balance. This fund does not have a deficiency yet but there have been some fairly significant declines in available cash over the last several years, and recommended that this fund also be monitored.

The engineering fund has a deficit of \$200,000, but that is internal service funds to allocate resources, incurring more expenses than are charged to other funds. This will be caught up as soon as building projects pickup.

Councilmember Krebsbach asked for a definition of infrastructure. Mr. Hodnefield said these are things that are of value to the city or local government (roads, bridges, sidewalks, etc.).

Councilmember Schneeman moved to accept the audit report as presented.

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

HEARING: 694 WENTWORTH  
AVENUE ASSESSMENT

Public Works Director John Mazzitello said for the past several months staff has been working on the property located at 694 Wentworth Avenue, and gave the history of this property.

Staff is asking for approval for assessing the costs of the court fees, demolition and other costs associated with this project to the property owner. The dollar figure expressed in the resolution is the combination of the contractor costs, legal costs and staff time. The amount to be assessed is \$22, 974.82.

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

Councilmember Krebsbach moved to close the public hearing.

Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

Councilmember Schneeman moved adoption of Resolution No. 09-64, "RESOLUTION ADOPTING AND CONFIRMING ASSESSMENT FOR 694 WENTWORTH AVENUE STRUCTURE DEMOLITION PROJECT (PROJECT NUMBER 200907)."

Councilmember Vitelli seconded the motion.

Councilmember Duggan expressed some language concerns in the resolution. Mr. Mazzitello said he checked the past assessment resolutions and it is a boilerplate legal language for aN assessment resolution.

Councilmember Schneeman said it is wonderful to have this over and done with.

Ayes: 5

Nays: 0

CASE NO. 09-27, FAHEY

Mr. Sedlacek reviewed Planning Case 09-27, which is a request for a critical area permit for 979 Caren Road.

The applicant has been in the process for a couple of years of constructing a rock wall in the rear of his property without a critical area permit. The applicant, upon deciding to sell the property and move, hired a contractor to finish the wall. The city was made aware of the move, and required Mr. Fahey to apply for a critical area permit. By the time the city was made aware of this situation, the work was completed. There is a new owner of the property, Mr. Bob Thompson, who was in the audience at this meeting.

Mr. Sedlacek said there is also a new rain garden in this area that is seen as a natural stonework area that along with the wall did not require a building permit. There were no grading changes except for a small amount of dirt movement.

The Planning Commission heard this case on July 28<sup>th</sup> and the Planner recommended approval of the critical area permit, feeling that the storm water facility was actually an improvement to the water runoff of the site and the wall was well within the standards of the critical area permit.

No one spoke at the public hearing and the Planning Commission voted in favor of the critical area permit by a 7-0 vote.

Mr. Bob Thompson, 979 Caren Road, said he purchased the home partially because of the nice landscaping.

Councilmember Duggan moved adoption of Resolution No. 09-65, "A RESOLUTION APPROVING A CRITICAL

AREA PERMIT FOR LANDSCAPING AT 979 CAREN ROAD.”

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-28, LUCKE/  
KAMMUELLER

Mr. Sedlacek reviewed Planning Case No. 09-28 which is a request for a variance for a side yard setback located at 1250 Dodd Road.

The applicant currently has a two-car tandem garage, and is proposing to construct a two-car garage along the frontage of the home, with the third stall in tandem behind the garage. The new garage will replace the current flat roof structure, and will improve the roof line by tying the roof line into the existing house.

The Planning Commission discussed this case at their July 28<sup>th</sup> meeting. Feeling that a two-car garage is a reasonable request, they agreed with the applicant that there is no other location to try to place this type of structure. It was also discussed at the Planning Commission that there is a breeze way between the garage and the home, with stairway access to the basement of the home in this area, which would not allow for the garage to be built closer to the home.

There was one person who spoke at the public hearing, with a question regarding the cottonwood trees to the south of the garage. Mr. KammueLLer addressed this issue with the contractor’s statement about the good health of the trees.

The Planning Commission voted 6-1 (Povolny being the dissenting vote) to approve the Planner’s recommendation.

Councilmember Schneeman said she recently met with the Kammuellers, noting that they have done extensive remodeling to their home. Councilmember Schneeman said they assured her that the construction would be done in a timely fashion, and she feels that the project will be a great improvement to the home. In speaking to the next door neighbor, Councilmember Schneeman said the neighbor is very happy about this. The cottonwood trees are very large and beautiful.

Councilmember Schneeman moved adoption of Resolution No. 09-65: "A RESOLUTION APPROVING A 5' VARIANCE TO THE SIDE YARD SETBACK FOR A GARAGE ADDITION AT 1250 DODD ROAD." Councilmember Krebsbach seconded the motion.

Councilmember Duggan asked if it is normal in the city for homes to have two driveways, and is the gravel driveway in this case considered a driveway. Mr. Sedlacek said this is an existing non-conforming situation. Councilmember Duggan said it would make sense to access the back garage with a separate driveway rather than move cars in and out. Councilmember Duggan said he is not happy with the resolution language under condition #2, because this opens opportunities to others in the community to convert their garages in such a manner.

Councilmember Schneeman stated that Council usually takes these situations on a case by case basis, and that this was grandfathered in as the house was built during the 1940's.

Mayor Huber said he would have more of a concern if the new garage exceeded the maximum allowed of 1,200 sq. ft. Councilmember Duggan said he does not believe that this does. Mayor Huber said this may open a can of worms.

City Attorney Tami Diehm said she was comfortable with the language as it was, but understands Councilmember Duggan's concerns. If the council would prefer to strike the questionable language, they can do so. The important thing to remember is that the garage size is within the standards.

Councilmember Vitelli said the finding of a hardship has not been found, and the property owner already has a two-car garage.

Councilmember Krebsbach said she would support this as the house was built in 1947, and had researched some history of the home, finding that the original garage was built in 1965. Councilmember Krebsbach said if this garage would be any closer to the property line, she would not be in favor of it. Councilmember Krebsbach said she cautions the city council on "creative garages" and agrees

with Councilmember Vitelli that this may start a confused looking neighborhood. Councilmember Krebsbach said she feels having one car in front of another is a hardship.

Councilmember Krebsbach said she believes this kind of request will come again and would like to have the resolution be sure to note that this will not exceed the allowable size limit for a garage.

Councilmember Schneeman said she will rescind her motion. Councilmember Krebsbach said she will rescind her second.

Mr. Arnold Lucke, architect for the Kammuellers, is from McGuire Courteau Lucke Architects, Inc. in St. Paul, MN.

Mr. Lucke talked about the Kammuellers asking him for assistance in continuing their renovations for the garage. Mr. Lucke said the plan is for a minimum of 21-ft in width for the garage, which will allow for a 16-ft garage door and would allow the Kammuellers to park two cars in the front, accessing Dodd Road, and have another stall to the rear for storage.

Councilmember Duggan asked if the existing garage has always been used with one driveway to Dodd and one driveway to Somerset. Mr. Lucke said that was correct, to varying extents. Councilmember Duggan said generally, garages are side by side, and knows of a few double-depth garages that currently exist in the city.

Councilmember Duggan said there have been previous discussions by the Planning Commission on when is a garage a garage, and when is an accessory structure an accessory structure. He asked Mr. Lucke if he had any consideration for using the breezeway incorporating the stairway areas in using that area as part of the garage. Mr. Lucke explained how the breezeway was laid out and could not be incorporated with the garage plans and would limit the Kammuellers in accessing their property from front to back, and vice versa, in that they would have to go through the garage to do so. Councilmember Duggan asked if this would create a fire hazard. Mr. Lucke said he could not make statement to that.

Councilmember Vitelli said he does not see why the applicant could not incorporate the breeze way. Councilmember Vitelli said the city has the ordinances in place for a purpose, and cannot understand why the architect cannot use the breeze way and eliminate the need for the variance. Doors can be placed in the back of the garage for easy access. Mr. Lucke said the access to the basement is through this stairway, and the property owners use this access to bring out the laundry. Mr. Lucke said as professional architects, they respond to the owner's desires, interests and program needs. If the stairway is left, and eliminate the walkthrough, they would still need 2.5-ft. into the 10-ft side yard setback. If there is another stairway placed to access the lower level, they will have to find another site into the basement. Councilmember Krebsbach asked if there was an internal stairway. Mr. Lucke said there is.

Mr. Ron Kammuehler, 1250 Dodd Road, said the kitchen door/back door will exit into the garage, and therefore, the garage door will have to be opened to get out of the kitchen. This is one of the reasons they want to maintain the breeze way. Mr. Kammuehler said he believes the minimum lot size in the city today is 100-ft. Mr. Kammuehler said his lot is only 90-ft. and believes this could be used as a hardship. In addition, the house was built in 1947 and was centered on the lot. Mr. Kammuehler said the frontage that he needs is on the north side of the lot, and if he could pick up the house and move it five feet, he would not be here. Moving is not an option with the money he has already invested, and they do not plan on moving from this home as they like where they live. Mr. Kammuehler said he does not feel that this is an unreasonable request.

Councilmember Krebsbach said a lot of people have to go through their garage to get out of their kitchen.

Councilmember Krebsbach said this is a very uncommon situation the breeze way and the stairways.

Councilmember Schneeman moved to approve Resolution No. 09-65: "A RESOLUTION APPROVING A 5' VARIANCE TO THE SIDE YARD SETBACK FOR A GARAGE ADDITION AT 1250 DODD ROAD".

Councilmember Schneeman said she is remaking this motion because she feels that the applicant is doing a wonderful job with the renovations and the breezeway will be a nice addition to the home. Taking the breezeway out and moving the garage closer to the home will make it all darker as the home will lose some windows.

Mr. Kammuehler said the elevation of the kitchen floor is almost equal to Somerset Road in the back so that this garage will have two elevations to the floor.

Mayor Huber seconded the motion.

Councilmember Duggan asked if the proposed addition will include the demolition of the existing garage. Mr. Kammuehler said it will be totally demolished and rebuilt, having a three car garage that is an allowable use in the city.

Councilmember Duggan said he does not have a problem with a three-car garage, but has a challenge with the requirement of the variance in relation to the hardship.

Councilmember Schneeman said the hardship is the 90-ft. lot.

Councilmember Krebsbach said she is going to switch her vote on this because she did not realize that the existing garage would be torn down and does not believe building the same configuration is a good decision in 2009 as most people would actually expect an attached garage, and to keep an unusual configuration going would add much to the resale.

Councilmember Schneeman said it would be an attached garage as it is attached to the breezeway.

Councilmember Duggan asked if there was any consideration for a detached garage back where the gravel driveway area is. Mr. Kammuehler said he has a back front yard on Somerset Road and a front front yard on Dodd Road, and if he were to build a free-standing 24-ft garage, with a 30-ft setback on Somerset Road, it would destroy the back yard. Additional fill would also have to be moved in

for a grade change and trees would have to be removed. This could also bring a hardship. Councilmember Duggan said he appreciates that the applicant has thought this all out, figuring out why it will not work rather than saying he simply does not want it there.

Councilmember Schneeman said the next door neighbor has also done a lot to their home.

Councilmember Duggan asked staff if there is a way to re-look at the resolution to find there is something in there that may have more substance in relation to the variance.

Ms. Diehm said ultimately this is a determination that the council needs to make, and certainly a 90-lot would be something that could be put in the resolution as a finding to show a hardship.

Councilmember Vitelli asked why this would be a hardship as there are a lot of lots in the north end of the city that are not 100-ft. Councilmember Vitelli said he will simply not support this as there is no hardship.

Councilmember Krebsbach said she is not going to support this either as to take the structure down and rebuild in the same footprint does not make any sense.

Mayor Huber said it is a little odd to take it down and rebuild the same thing.

Councilmember Duggan asked for clarification on how the driveway would be built. Mr. Sedlacek indicated on the map how the driveway would be constructed and would be in conformance.

Ayes: 2 (Mayor Huber, Councilmember Schneeman)

Nays: 3 (Councilmembers Duggan, Krebsbach, and Vitelli)

Councilmember Schneeman suggested that the applicant re-apply for this again with a different layout.

CITY ADMINISTRATOR  
SEMI FINALIST REVIEW/  
2010 BUDGET WORKSHOP

City Administrator Jim Danielson said there need to be dates set for the 2010 Budget Workshop as well as the review of applications for the replacement of the City Administrator.

Councilmember Duggan moved to approve the dates of August 18<sup>th</sup> for the Semi Finalist Review and August 25<sup>th</sup> for the 2010 Budget Workshop, both beginning at 5:00 pm. Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

Mayor Huber asked that any essays for the City Administrator position be forwarded to the council soon as possible to allow the council to review before the next council meeting.

#### COUNCIL COMMENTS

Councilmember Duggan said he would like to have staff speed up the process for the group home discussion. Mr. Danielson said this will be scheduled for public hearing at the Planning Commission on August 25<sup>th</sup> and staff will bring this back to the September 1<sup>st</sup> City Council meeting.

Councilmember Duggan attended two of the Nite to Unite gatherings on Concord Way and on Cheyenne. A request was made to have Mendota Heights staff work on traffic slowing on Concord.

Councilmember Krebsbach said in reading the police reports, residents are very fortunate to be living in a city with the great police coverage.

Councilmember Krebsbach said that an olive oil business is coming into the Village.

Councilmember Krebsbach said although she is not thrilled with the signage going in at Mendota Plaza, people are glad this is going to happen and things are moving forward.

Councilmember Schneeman asked if there is any information available on the Foss property. Mr. Mazzitello said they have received some preliminary inquiries for utility as-builts along Wentworth and Wachtler from a local engineer representing a purchaser of the Foss property, beyond that they have not seen any proposals. Councilmember Schneeman asked if this went to probate court. Mr. Mazzitello said to staff's knowledge, there is a purchaser.

Councilmember Schneeman sent condolences to the Jim Lilly family for the recent passing of Mr. Lilly.

Councilmember Duggan said there will be fundraiser at TK's the weekend of August 25<sup>th</sup> for the police canine unit of West St. Paul.

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 8:14 p.m.

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Rebecca Shaffer  
Recording Secretary

ATTEST:

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John J. Huber  
Mayor