

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, August 7, 2007

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

- CALL TO ORDER** Mayor Huber called the meeting to order at 7:30 p.m. The following members were present: Mayor Huber, Councilmembers Duggan, Krebsbach, Schneeman and Vitelli.
- PLEDGE OF ALLEGIANCE** Council, the audience and staff recited the Pledge of Allegiance.
- AGENDA ADOPTION** Councilmember Schneeman moved adoption of the revised agenda for the meeting.
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 17, 2007 as amended.
Councilmember Krebsbach seconded the motion.
- Ayes: 5
Nays: 0
- CONSENT CALENDAR** Councilmember Duggan moved approval of the consent calendar for the meeting, revised to move items 6c, Lilydale Police Contract, 6e, Par 3 water connections, 6f, 800 MHz Agreement, and 6i, Final Payment for Slope Remediation Project, to the regular agenda, along with authorization for execution of any necessary documents contained therein.
- a. Acknowledgement of the NDC4 Meeting Minutes & Agenda.
 - b. Acknowledgement of the July 24, 2007 Planning Commission Minutes.
 - c. Authorization for Mayor and City Clerk to Execute Change Order No. 1, Rain Gardens, Job No. 200516.
 - d. Adoption of Resolution No. 07-70, "RESOLUTION AUTHORIZING AMERICAN ENGINEERING TESTING, INC. TO PERFORM GEOTECHNICAL ANALYSIS FOR THE 2008 STREET RECONSTRUCTION PROJECT, AVENUES

NEIGHBORHOOD (CITY PROJECT NO. 200208), KAY AVENUE/WALSH LANE (CITY PROJECT NO. 200209) AND CALLAHAN PLACE (CITY PROJECT NO. 200213).”

- e. Adoption of Resolution No. 07-71, “RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACT FOR COPPERFIELD ADDITION STREET REHABILITATION AND DELAWARE AVENUE TURN LANE (PROJECT NO. 200603)” and Resolution No. 07-72, “RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A JOINT POWERS AGREEMENT WITH DAKOTA COUNTY FOR THE CONSTRUCTION OF A SOUTH BOUND RIGHT TURN LANE ON COUNTY STATE AID HIGHWAY 63 (DELAWARE AVENUE) AT HUBER DRIVE.”
- f. Approval of the list of contractor licenses dated August 7, 2007.
- g. Approval of the list of claims dated August 7, 2007 and totaling \$342,633.95.

Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

LILYDALE POLICE SERVICE AGREEMENT

Council acknowledged a memo from Police Chief Aschenbrener regarding a proposed revision to the formula for service contract charges to the City of Lilydale.

Mayor Huber stated that if Council would be supportive, he would like to have an opportunity to sit down with Lilydale’s Mayor and Police Chief Aschenbrener to talk this through more. He further suggested that if Council decides to change the formula for Lilydale, Mendota might want to go on the same basis. Council should consider Mendota as well. He would like to talk to the mayors of Lilydale and Mendota and bring something back at a future meeting.

Councilmember Krebsbach stated that she supports Mayor Huber’s recommendation. Some years ago Council talked about the types of calls the police department was getting, particularly in Lilydale, and she would like to know the types of calls the department is getting now and what the \$37,000 contract reduction is based on.

Mayor Huber stated that whatever basis is used must be sustainable.

Councilmember Vitelli recommended proposing 7.4% of the adjusted annual police budget rather than 7%. He talked to the Chief today and last year the call frequency for Lilydale increased to 8/6%. He recommended 7.4% and a five year contract. A five year contract

gets away from nitpicking the contract every couple of years. The flat percentage would be so that there is no nitpicking over what calls could be counted and what should not be counted. The police department should keep records so that when a new Council has to look at this, there will be some data that will justify an increase or decrease in the rate. He stated that this is his recommendation to Mayor Huber as he goes through discussion with the other mayors.

Councilmember Duggan asked if there is a time period built into the contract for notice before Lilydale can pull out of the contract.

Mayor Huber responded that he will discuss that issue with the other mayors.

Councilmember suggested that Mayor Huber and Chief Aschenbrener used flip charts on the history, etc., and present the city's logic for recommending the contract changes.

Further discussion was tabled to allow Mayor Huber and Chief Aschenbrener to meet with the Lilydale and Mendota mayors to discuss the issue.

PAR 3 WATER CONNECTION

Council acknowledged a memo from Assistant Sedlacek recommending that Council authorize the installation of water and sanitary sewer service to the Par 3 clubhouse and maintenance facilities and the installation of a fire sprinkler system at the maintenance facility.

Councilmember Duggan stated that he does not support the recommendation. Council went into the Par 3 acquisition process with concerns for the cost of operation and whether the residents would support the acquisition. The city is now proposing to spend \$58,000 on Par 3 upgrades. He suggested waiting for three years or so that there is information available to compare the city's cost of operation and profits with those of the prior owners. He would rather put this off until Council sees if Par 3 is successful. He felt that two fire extinguishers would work fine. The Par 3 has been in operation for forty years without the need for city utilities and a sprinkler system.

Assistant Sedlacek responded that when the Par 3 was evaluated, it was recognized that there were some big ticket code compliance issues that would need to be addressed if the city purchased the facility. Capital needs were built into the bond referendum. The sprinkler system is required by the city code, and in order to install

the system, city water needs to be run to the maintenance facility. It does not make much sense to install a 1 ½ inch line for the sprinkler system now when there may be a need to use city water for irrigation some time in the future if the well goes out.

Councilmember Vitelli moved to authorize staff to proceed with the installation of water service at the Park 3 clubhouse and maintenance facility and installation of a fire sprinkler system at the Par 3 maintenance facility.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

800 MHZ AGREEMENT

Councilmember Duggan pointed out an error (missing word) in the third “Whereas” of the resolution.

Councilmember Vitelli moved adoption of Resolution No. 07-69: “RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF SUBSCRIBER AGREEMENT WITH DAKOTA COUNTY FOR USE OF THE DAKOTA COUNTY 800 MHZ RADIO SUBSYSTEM,” as corrected.

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

FINAL PAYMENT FOR SLOPE REMEDIATION

Council acknowledged a memo from Public Works Director McDermott recommending approval of the final payment for the Pilot Knob Road slope remediation project to Veit & Company, Inc. for \$27,037.44.

Councilmember Duggan asked if any of the Councilmembers have looked at the project. He stated that he was not impressed but was assured by Ms. McDermott that by next year the prairie grass will take root.

Councilmember Schneeman commended Ms. McDermott for her diligence on this very difficult issue.

Councilmember Duggan moved adoption of Resolution No. 07-73: “RESOLUTION ACCEPTING WORK AND APPROVING FINAL PAYMENT FOR JOB NUMBER 200409.”

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

ANNOUNCEMENT

Mayor Huber stated that Council likes to mention different things going on in the community and he would like mention that the shop owners at the Village at Mendota Heights are sponsoring music in the park at the Village on the third Thursday in August and the third Thursday in September from 6:30 to 8:30 p.m. Many of the store owners will be doing different things, like grilling outside (Sage Market) and wine tastings, etc.

PRESENTATIONS

Mayor Huber stated that Mendota Heights is proud to have the new America's Junior Miss of 2007, Miss Nora Ali, as a resident. He stated that this has been a remarkable string of successes by Ms. Nora Ali.

Councilmember Duggan stated that it is wonderful to recognize the people receiving awards but it is also appropriate to recognize the parents. The Ali's have been his neighbors for a number of years and he has watched the family grow over the years. Nora, who is the middle daughter, received the honor of being named the 50th America's Junior Miss. He stated that he has asked Ms. Ali to play the violin this evening for Council and the audience.

Ms. Ali performed a short portion of the piece she played in the America's Junior Miss competition.

On behalf of Council and the community, Mayor Huber presented Miss Ali with a plaque recognizing her achievements.

Councilmember Duggan suggested that Mrs. Ali, Nora and her sisters give a performance at the city's park celebration.

Councilmember Vitelli stated that he is very impressed with Mr. & Mrs. Ali as well as the children.

Mrs. Ali stated that she and her husband are very interested in what the children do, so they spend a lot of time with the children. They are very good children and they like to work hard. One cannot get far in life without working hard.

CASE NO. 07-25, HANSON

Council acknowledged an application from Mr. James R. Hanson for a Critical Area Permit for a storage shed at 796 Sibley Memorial Highway. Council also acknowledged associated staff reports. Mr. Hanson was present for the discussion.

Public Works Director McDermott stated that Mr. Hanson appeared before the Planning Commission on July 24, and the commission

recommended approval with two conditions that had been recommended by the city planner. The home sits on two separate lots. One condition is to combine the two lots into one. The reasoning for this is that the shed, as it exists already, is within a couple of feet of the property line. By combining the lots there would be no need for a variance from the setback. The other condition is that all code enforcement issues be completed. There are some issues with materials stacked in the yard. The city attorney is dealing with Mr. Hanson on that issue. In the future, for a property owner to remove the home it would be a simple matter to uncombined the lot.

Mayor Huber stated that combining the lots should not be a significant burden on the property owner.

Ms. McDermott stated that it would only require a letter to Dakota County. She could time the letter so that the county could take care of the combination after the second half taxes are due.

Mr. Hanson indicated that he has no objection to combining the lots. Councilmember Duggan stated that there is no demonstrable hardship for granting a variance. By combining the lots, the variance is not needed. If Mr. Hanson decides to divide the property and sell them as two lots in the future, he would have to take the house down.

Councilmember Duggan moved adoption of Resolution No. 07-74, "A RESOLUTION APPROVING A CRITICAL AREA PERMIT FOR A STORAGE SHED AT 796 SIBLEY MEMORIAL HIGHWAY."

Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

CASE NO. 07-26, ROSZAK

Council acknowledged an application from John and Linda Roszak for a Critical Area Permit to replace existing exterior stairways at 1235 Culligan Lane. Council also acknowledged associated staff reports.

Assistant Sedlacek stated that the purpose of the requirement for a critical area permit is to make sure any activities in the critical area do not have a negative impact on the critical area. Mr. Roszak is planning to replace existing stairs. One issue is that two or three of the stairways are not in compliance with the critical area setback, however, replacement due to maintenance of non-conforming structures is allowed by the ordinance as long as the new structures

do not come further into the setback and have no negative impact on the critical area, and as long as it is a safety issue.

Mr. Roszak stated that he was just going to have the house painted, and the contractor noticed some of the wood in the stairs is rotting. He would like to put in wider steps to make them safer.

Responding to a caution from Councilmember Vitelli about using the original footings, Mr. Roszak stated that his contractor has worked that out with the Code Enforcement Officer.

Councilmember Duggan moved adoption of Resolution No. 07-75, "A RESOLUTION APPROVING A CRITICAL AREA PERMIT AT 1235 CULLIGAN LANE."

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

ACCESSORY BUILDINGS

Council acknowledged a memo from Assistant Sedlacek regarding the maximum size of permitted accessory buildings. Assistant Sedlacek stated that Council discussed accessory buildings at their workshop earlier this year and felt it would be appropriate to deal with accessory building requests on a case by case basis. Accessory structures are now allowed at 144 square feet. Anything larger requires a conditional use permit. Staff has received a few calls about increasing the size, and the issue was referred to the city planner who prepared a report that was received by the Planning Commission at their last meeting. Assistant Sedlacek informed Council that he did a survey of other cities and Mendota Heights' is about in the middle of the range as far as the size of accessory buildings. Woodbury does not allow accessory buildings and Minnetonka allows 600 square feet. The Planning Commission generally seemed to support offering the residents a variety of sizes. People have many things that they like to store nicely. If Council is interested in staff studying further, Council can authorize the Planning Commission to conduct a public hearing. The planer suggested a sample ordinance to permit accessory structures up to 200 square feet. That is smaller than a single car detached garage but it would allow flexibility for the residents.

Councilmember Schneeman asked whether residents could still come before Council for a conditional use permit for a larger structure if the permitted size is increased to 200 square feet.

Assistant Sedlacek responded that they could. A couple of hindrances with the process are the fee and the amount of time the conditional use process takes. A lot of times people are at a hardware store when they decide to buy one of the structures and they would have a two month delay before they could install the structure if a conditional use permit is required. A 12 by 12 structure is one of the larger prefab structures, but there are many companies that build the larger ones.

Councilmember Vitelli stated that he would like to continue on the case by case basis. He does not think Council sees this as a problem. Council only gets a couple of requests a year, and 144 square feet is right in the middle of the accessory structure sizes in the cities that were surveyed. Also, there are some small lots in the north end of the city and he would hate to see a 200 square foot accessory structure on those smaller lots.

Councilmember Krebsbach noted that there are four cities that only permit smaller sized structures. She felt that a really important piece is what realtors think. She has been on Council long enough to know that accessory structures only get bigger and they are never big enough and clutter back yards. She felt that Council should continue to consider accessory structures on a case by case basis, and consider the size of the lot and the neighborhood.

Mayor Huber agreed, stating that there are a wide variety of lots and there are lots where 200 square foot structures would be fine and others where it just would not be fine. He felt Council should continue on the case by case basis and leave the ordinance as it is.

TRAFFIC SAFETY COMMITTEE

Council acknowledged a memo from Public Works Director McDermott recommending the creation of a traffic safety committee to review complaints regarding traffic issues.

Ms. McDermott stated that over the last year staff has received several complaints from residents and staff has also been working with St. Thomas Academy and Visitation on traffic issues on Mendota Heights Road. The issues range from stop sign requests, traffic signal requests, cross walk requests and speed limit complaints to traffic calming issues. In the past she and the police chief would address the requests on a case by case basis. Due to the increasing number of requests, they would like to form a traffic safety committee. That would allow a standardized method to address each request. Staff proposes a committee consisting of the police chief, public works director, a traffic engineer, a

Councilmember and a planning commissioner. Requests and complaints would come in at the staff level and go to the committee. Any improvements that would cost any money would be brought to the Council. If the committee decides not to go forward with a request, the applicants could come to Council. She stated that if Council would like to move forward with the recommendation, the committee would develop standards to deal with citizen requests. The proposed standards and procedures would be brought back to Council for approval.

Councilmember Krebsbach asked if it is difficult for staff to know how to proceed without a committee. She also asked if quarterly meetings of the committee are appropriate.

Ms. McDermott responded that she and Chief Aschenbrener would really like some outside expertise from a traffic engineer. Fire Chief Maczko is a traffic engineer and is also a resident, and he has agreed to be on the committee if it is formed. She stated that the committee probably would not even need to meet quarterly and would not meet unless there is a request.

Mayor Huber stated that he views this as a good expansion of an existing process that is already in place. When someone comes in for a stop sign, Council passes it on to the police chief. This brings a few more technical skills to the process and brings together a few more disciplines. He thinks the committee would be appropriate. In the past, council has taken the police chief's advice and took the issues out of the political arena. He would not like to see these requests politicized.

Councilmember Schneeman stated that she supports the recommendation. The committee would create a procedure and policies and guidelines that can be given to people when they come in with a request. She would not want this to be something that would be drumming up business – Council does not want stop signs at every corner.

Councilmember Krebsbach suggested establishing a committee on a trial basis for a year.

Councilmember Vitelli stated that when he first read the memo his reaction was that he hates to form committees and was not in favor of the idea. When he was working and someone suggested a committee, he would ask them what the need for the committee is, so he talked to the police chief and city administrator and they

convinced him it is a good idea. Residents come in and are frustrated about an issue. He thinks this would help the residents get a feeling that some skilled people who have knowledge and expertise have considered their requests and the police chief and public works director would not be the “bad guys.”

There will be more involvement by qualified people. He volunteered to be the Council committee member.

Councilmember Duggan moved to direct staff to initiate the Traffic Safety Committee and to appoint Councilmember Vitelli to serve on the committee.

Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

FIRE STATION SITE

Council acknowledged a memo from Public Works Director McDermott regarding bids received for the sale of the former fire station site at 2144 Dodd Road.

Mayor Huber stated that the Council discussed this at a past meeting. He talked to the city attorney today about the matter. There are a couple of things he wants to make clear. He and Attorney Diehm continue to believe the way Council has gone about this is consistent with what is legally correct. Ms. Diehm suggested today that perhaps the city has put itself in a situation whereby there would be a sale pending a zoning change, which may be contrary to the order that should be applied. She has suggested that the city go through the planning processes first and then consider the sale after that.

Attorney Diehm stated that if this is property the city is interested in selling, if Council first puts it through the process of considering rezoning, the zoning would be in place before the sale and the ambiguity is gone. If it is rezoned, the city will have commercial property to sell and if not, it would be sold as a residential lot.

Mayor Huber stated that not going through the planning process first would create a situation where the prospective buyer will not know what the zoning will be. If Council is supportive of the approach, one avenue to take is to take no action on the information that has been presented to Council from prospective buyers and go through the planning process first to see where that goes and then consider the sale. That would put the burden on the city to change the zoning versus a prospective buyer going through the process without knowing where the zoning will end up.

Councilmember Schneeman stated that she feels that would be a cleaner process and that the city should make sure there is a lot of city notification for the planning process.

Attorney Diehm stated as clarification that it would be a hearing to change the comprehensive plan, and the rezoning and sale of the property by the city.

Councilmember Duggan stated that the approach makes sense. He thought there had been more discussion by Council on a suitable use for the property. He thinks Council discussed that it did not make sense to have single family on that lot. He supports going through the planning process before the sale process.

LILYDALE LOT

Council acknowledged a memo from Administrator Danielson regarding a vacant lot owned by the City of Lilydale that they propose to sell for development.

Administrator Danielson stated that staff has received several calls, including a call from a Lilydale Councilmember about this lot. Staff found out that there was a boundary lawsuit on this property and other land located south of TH 13 in the 1970's to determine whether the property was located in Mendota Heights or Lilydale. An agreement was reached before the matter went to court. The agreement included covenants and restrictions that limited the number of units that could be constructed on the property. The legal description of the property covered in the agreement is very lengthy and complex. Although it appeared at first that this property was covered in the agreement, thorough review of the legal description found that it was not covered by the covenants and restrictions.

Councilmember Krebsbach asked Lilydale City Clerk Joan Olin for the definition of single family in Lilydale and whether there is a height restriction.

Ms. Olin stated that Lilydale is updating its comprehensive plan and there are five lots that are being addressed in the comprehensive plan, including this property. Lilydale's planner recommended that the lots be guided for multi-family homes. When this parcel was brought up, it was discussed for multi-family but since it is in the critical river area it can only develop as single family. Lilydale has a height restriction of 35 feet and she sees the lot being developed like the Stroh house next door to it. Lilydale's definition of height is generally the same as Mendota Heights' definition. Currently the lot is zoned for passive open space.

Councilmember Krebsbach stated that the more the bluff fills in, the more it is lost as an amenity. If Lilydale can keep it as open space it would benefit everyone.

Councilmember Duggan stated that if it could remain open space that would be great, but if it cannot, Lilydale can certainly sell it.

Mayor Huber stated that it is Lilydale's property. Council just asks that Lilydale comply with the ordinances that apply. Lilydale is trying to monetize this just like Mendota Heights is doing with the old fire station site. It is their city and it is Lilydale's decision.

Councilmember Krebsbach stated that representatives of Lilydale, Mendota and Mendota Heights should get together . All three cities share the bluff and should protect it.

Ms. Olin stated that this lot will not be multi-family. There will be two rain gardens to control drainage.

Councilmember Krebsbach stated that she would encourage the three cities to get together to discuss how they are going to preserve the green area on the bluff and asked Mayor Huber to discuss the matter with the Lilydale and Mendota Mayors when they get together to discuss the police contracts.

MENDOTA PLAZA PUD AMENDMENT

Council acknowledged a memo from Assistant Sedlacek regarding continued discussion on an application from for a sign permit (which triggered a Minor PUD Amendment) from SignARama for signage for the Royal Star Liquidators space in the Mendota Plaza.

Assistant Sedlacek stated that this was before Council on July 3 and there were some questions about the agreement that governs the specifics of signs on the Mendota Plaza. The applicant's intention is to fill the existing sign space left over by the Do It Best store. There will not be any additional sign surfaces. It is required that the landlord sign off on signage in the shopping center and he has done that. The city role in this is whether the signs meet city code.

Councilmember Krebsbach stated that she does not want to approve this and asked if there is any basis on which to deny it.

Attorney Tami Diehm responded that she has provided some background information in a memo to Council on the quasi-judicial authority of Council. Council would have to find that the applicant

does not comply with one of the requirements of the code and make specific findings.

Councilmember Krebsbach stated that she thinks it would be worth the time to look into the requirements further before the next meeting.

Councilmember Schneeman asked if any of the signs would be lit. Assistant Sedlacek responded that the signs are lit. They would use the existing Do It Best signs but would replace the sign messages. Under the MU-PUD ordinance, the criteria is that the land owner sign off on the signs. In that sense, the applicant has met the requirements of the city code.

Assistant Sedlacek informed Council that the original 60 day review period expires on August 28 but can be extended for another 60 days.

Councilmember Vitelli stated that he would challenge the truth in advertising. The proposed sign says "fine furniture" and should say "furniture."

Council directed City Attorney Diehm to review the matter further and report back at the next meeting.

COUNCIL COMMENTS

Councilmember Duggan informed Council that city resident Bernie Friel was on "Almanac" recently. Mr. Friel was part of a group of people looking for MIA's in Papua and they were quite successful.

Councilmember Duggan stated that he would like to extend appreciation to the police chief and city staff and to the police chiefs and staffs of West St. Paul and Inver Grove Heights who met at Inver Grove Heights to discuss the next steps in dealing with a major flu. The comfort level was excellent and the group was serious about getting tasks done and moving forward. Assistant Jake Sedlacek ran the meeting and did a great job. It was very interesting and very democratic. He congratulated Assistant Sedlacek and Chief Aschenbrener for a job well done.

Councilmember Krebsbach stated that on the day the I-35 bridge collapsed, two of the city's firefighters were in the first responders group. She expressed appreciation to them and stated that the firefighters are always engaged and ready to assist others.

Mayor Huber stated that the bridge collapse was a tragedy and it makes one stop and think about that when Council is making decisions and staff is making decisions. Council must really think through the decisions and do what they think is best for the community. It is sobering to think about. The bridge collapse brings home the seriousness of what Council does here, and Council appreciates the support of the residents and staff.

Councilmember Schneeman stated that the new sport court has been installed at Valley Park and it is beautiful. The Marie Park tennis courts are great also. Councilmember Schneeman stated that she would like to have a report on the Mendota Homes development in Lilydale for the next meeting.

Councilmember Vitelli stated that Police Chief Aschenbrener is due some recognition. When he looks back over the Chief's four years with the city, the chief has handled things very well. He did a lot of personnel work, then a long-time sergeant retired. Now he is working on staffing and working on the Lilydale agreement and the 800 MHz issue. That all takes a lot of time along with all the upgrades to the computer system. The chief has done a wonderful job and has spent a lot hours. He thanked Chief Aschenbrener for all of his time.

Councilmember Krebsbach supported Councilmember Vitelli's comments and noted that the National Night Out, which was held this evening, is another example.

Mayor Huber stated that Officer Brian Convery deserves a lot of credit for putting together the National Night Out at the Mendakota Park and the seven neighborhood sites.

ADJOURN

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

Ayes: 5
Nays: 0

TIME OF ADJOURNMENT: 8:52 p.m.

ATTEST:

Kathleen M. Swanson, City Clerk

John J. Huber
Mayor