

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, September 1, 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

Acting Mayor Schneeman called the meeting to order at 7:00 p.m. The following members were present: Councilmembers Duggan, Krebsbach, and Vitelli. Mayor Huber was absent.

PLEDGE OF ALLEGIANCE

Council, the audience and staff recited the Pledge of Allegiance.

AGENDA ADOPTION

Acting Mayor Schneeman stated that Matthew Cunningham (Planning Case No. 09-31) has requested that discussion on his planning application be tabled to the next meeting.

Councilmember Vitelli moved adoption of the agenda as revised.

Councilmember Duggan seconded the motion.

Ayes: 4

Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved approval of the minutes of the regular meeting held on August 18, 2009 as corrected. Councilmember Vitelli seconded the motion.

Ayes: 4

Nays: 0

CONSENT CALENDAR

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

- a. Acknowledgment of the Minutes from the August 11, 2009 Parks and Recreation Commission Meeting.

- b. Acknowledgement of the Minutes from the August 25, 2009 Planning Commission.
- c. Acknowledgement of the July 2009 Building Activity Report.
- d. Acknowledgement of the July 2009 Fire Department Report.
- e. Authorization for Issuance of Temporary Liquor License for St. Thomas Academy.
- f. Authorization for Retaining Recording Secretary.
- g. Authorization for Change in Date for September Airports Relations Commission Meeting.
- h. Approval of the Completion of Probationary period for John Mazzitello, Director of Public Works.
- i. Approval of the Completion of Probationary Period for Andy Quinlan, Maintenance II Worker.
- j. Approval of the Permanent Non-Probationary Status for Half-Time Support Specialist Sue Donovan.
- k. Approval of Firefighters Completion of Probationary Period.
- l. Approval of Exterior Building Modifications for 800 South Plaza Drive.
- m. Approval of Sign Permit Request 880 Sibley Memorial Highway.
- n. Approval of Purchase Order for Gartzke Construction for Storm Sewer Repair on Chippewa Avenue and Junction Lane Project No. 200911.
- o. Adoption of Resolution No. 09-69: "RESOLUTION FORMALLY ACKNOWLEDGING THE RECEIPT OF THE GIFTS FROM MIKE AND SHANNON PARKOS TO THE CITY OF MENDOTA HEIGHTS".
- p. Adoption of Resolution No. 09-70: "RESOLUTION REQUESTING OPTION A – SINGLE DISTRIBUTION AS MENDOTA HEIGHTS' CHOICE FOR THEIR SHARE OF THE DISTRIBUTION OF THE DCC UNDESIGNATED FUND BALANCE".
- q. Approval of Contractors List, dated August 26, 2009.
- r. Approval of the List of Claims, dated August 27, 2009, totaling \$120,559.17

Councilmember Vitelli seconded the motion.

Ayes: 4
Nays: 0

Acting Mayor Schneeman asked to pull item l and said Firefighter Tom Shields has been a firefighter for 20 years and is retiring because he has an expanding family, and he

will be very much missed. Councilmember Krebsbach expressed her congratulations to Mr. Shields.

Councilmember Duggan asked to have item p pulled and asked to make a typographical correction.

Councilmember Duggan moved adoption of Resolution No. 09-70, "RESOLUTION REQUESTING OPTION A – SINGLE DISTRIBUTION AS MENDOTA HEIGHTS' CHOICE FOR THEIR SHARE OF THE DISTRIBUTION OF THE DCC UNDESIGNATED FUND BALANCE" and to accept, with regret, the letter of resignation of Firefighter Tom Shields.

Councilmember Vitelli seconded the motion.

Ayes: 4

Nays: 0

PUBLIC COMMENTS

Gail Llewellyn and Linda Brown presented some information and an invitation regarding an event being planned at Pilot Knob on Sunday, October 4th, which will be a public dedication and Dakota spirit ceremonial event.

Councilmember Duggan apologized for being abrupt to Acting Mayor Schneeman and staff during some recent conversations regarding matters on tonight's agenda.

TOWN CENTER UPDATE

Ross Fefercorn updated the Council on recent activities at The Village. Some of those activities included:

- New Tenants:
 - Relax N Tan
 - Perfect Polished Nails
 - Expert Hearing and Audiology
 - Olive Grove
 - St. Paul Oral Surgery
 - WNB Trust
 - MSP Travel
 - Dr. Robert Eng, Orthodontist
 - Clear Story Financial Advisors
- AT&T wireless equipment and clock installations
- Proposed physical therapy group is in process

Mr. Fefercorn said he will be moving his offices to The Village soon.

Mr. Fefercorn talked about some of the past and future social/musical events at The Village.

Mr. Fefercorn updated Council on some of the events taking place in the housing sector of the project. With the slow marketing environment, they are seeing some activity, including the sale of two units in the condominium building (to be combined into one large unit). Current inventory includes five unsold townhomes and thirteen condominiums.

Councilmember Duggan expressed his appreciation for the activities taking place, and for Mr. Fefercorn's regular reports.

Councilmember Krebsbach said she is very pleased with The Village and suggested getting some type of destination business such as a bread store that would complement the Olive Grove.

Councilmember Vitelli gave his compliments on the activities at the Village.

Acting Mayor Schneeman said she has received some phone calls regarding the watering system near the walking path as residents are asking for the timing to be done differently. Councilmember Krebsbach expressed a concern about the water fountain.

HEARING: EASEMENT
VACATION

Assistant to the City Administrator Jake Sedlacek reviewed a map showing the Mendota Heights Business Park 4th Addition. The request is for vacation of an unused roadway and utility Easement.

Acting Mayor Schneeman said this vacation is necessary for Bituminous Roadways to complete the land and construct its project.

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

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

Ayes: 4

Nays: 0

Councilmember Duggan moved adoption of Resolution No. 09-71, "RESOLUTION APPROVING A VACATION OF AN UNUSED ROADWAY AND UTILITY EASEMENT AT LOT 2, BLOCK 1, MENDOTA HEIGHTS BUSINESS PARK, 4TH ADDITION."

Councilmember Vitelli seconded the motion.

Councilmember Duggan said he was wondering about the language in the resolution that talks about "abandon in place" and asked what this means. Civil Engineer Ryan Ruzik said the plans show that the water main and storm sewer were removed, the sanitary sewer manholes were removed down to the base section and were abandoned in place, filled with sand and plugged at the end.

Councilmember Duggan asked if there are any safety issues. Mr. Ruzik said there should be no issues.

Ayes: 4

Nays: 0

EXPERT HEARING AND AUDIOLOGY SIGN PERMIT

Acting Mayor Schneeman said this discussion is in response to Councilmember Krebsbach's request for more discussion on this issue. Councilmember Krebsbach said she is not sure that the proposed signage was in keeping with the character of the existing blade signs in The Village.

Mr. Sedlacek said staff visited the site and looked at the existing signage, noting that this sign is consistent in size and color with the other signs in The Village.

Councilmember Krebsbach said the other signs have a little more shape to them.

Mr. Fefercorn stated that in the design covenants, the developer ultimately approves each sign, working with the tenants in the development of these signs. Most tenants have not had much experience in other developments with this, and Mr. Fefercorn has made allowances within the lease and design covenants to offer a number of shapes that are allowed. Although this is the only rectangular shape, he is not aware of any one else proposing such shape. Given the pre-existing logo and graphic of the company and the size they wanted to use within the constraints of the sign, the owners felt they wanted to have more of the rectangular presence. Mr. Fefercorn said he does not want to ask the tenant to change their signage at this point.

Councilmember Krebsbach said the sign looked larger in the materials that were presented previously, and agreed that the sign will be attractive.

Councilmember Vitelli moved to approve the Sign Permit Request for 750 Main Street, Suite 150 – Expert Hearing and Audiology.

Councilmember Krebsbach seconded the motion.

Ayes: 4

Nays: 0

CASE NO. 09-20, KERN
WETLANDS PERMIT

Mr. Sedlacek introduced Case No. 09-20 for a Wetland Permit at 531 Marie Avenue West. The work that is in question for the permit was a series of projects that were completed on the site to improve a wetland area and some of the drainage through that area.

Mr. Sedlacek said this work was brought to the city's attention through a neighbor who was concerned about the work being done without a permit. Staff visited the site and verified that this work was done without such permit and requested the property owner make application for the wetland permit.

The scope of the work was to have a culvert constructed on both sides of the pond, installing rip rap to control further erosion at those points.

Concerns were expressed at the Planning Commission that the soil was eroding significantly and the property owner's intent was to contain the wetland and not to change the way it functions, creating a clearer line between the wetland and the manicured yard. The Planning Commission held a public hearing on August 25th and there were no public comments received. The Planning Commission recommended approval of the wetland permit as the application defines it.

Councilmember Krebsbach asked if the concerned neighbor is satisfied. Mr. Sedlacek said the applicant is not present at the time due to a scheduling conflict, and staff has not heard any further feedback from the neighbor, who neighbor has been kept apprised of what the process has been so far.

Mr. Ruzik explained the applicant was actually enlarging and improving the wetland area, noting that this was a man-made pond, doing emergency repair work to the pond. Mr. Ruzik said the applicant should have come in for a permit, however Mr. Ruzik feels that the work that was done is an improvement to the overall quality of the city water and storm water management.

Councilmember Krebsbach asked if this was a wetland before the applicant created the pond. Mr. Ruzik said Marie Creek used to run through this yard, and the applicant made a pond and this is not viewed as a protected wetland.

Councilmember Krebsbach asked City Attorney Tami Diehm if there is some level of responsibility that the city has going forward should the rip rap give way. Mr. Ruzik said this is all on private property and there are no easements over this area. Ms. Diehm said the city does not assume any liability by granting the permit.

Councilmember Krebsbach asked how deep the pond is. Acting Mayor Schneeman said she does not believe it is very deep and contains water coming from Sibley Memorial Highway all the way down, sloping down to the creeks, and she imagines this would be helpful to other residents.

Councilmember Vitelli moved adoption of Resolution No. 09-72, "RESOLUTION APPROVING A WETLANDS PERMIT FOR DRAINAGE MANAGEMENT WORK AT 531 MARIE AVENUE WEST."

Councilmember Duggan seconded the motion.

Councilmember Duggan said that at the Planning Commission meeting, Commission McManus had questioned whether or not this is a part of the Hidden Creek Estates creek and all the other wetland and waterway areas, and Councilmember Krebsbach is asking a good question as to what is the source of water to this in relation to drainage in the area, and is it indeed part of that larger wetlands. Maps should be better refined in relation to the work that has been done, and assurance that this is a wetland that does not impact other wetlands.

Councilmember Duggan said while he acknowledges the

opinion of Planner Gritman and city staff that this work is a great improvement, he would like to have another inspection done in light of what Councilmember Krebsbach was asking, and have that information put in the record.

Mr. Ruzik said he has visited the site several times and talked about how the creeks run in general, and having a pond such as the one proposed will actually minimize the erosion. The water in this case comes from the Dodge Nature Center and West St. Paul.

Councilmember Krebsbach asked if the applicant in this case is responsible for this wetland and maintenance, or does he have the right to change it to a more natural setting. Mr. Ruzik said there after a manmade pond exists for 25 years it is considered a natural wetland. Mr. Sedlacek said under the city ordinance, this pond is recognized as a wetland and Mr. Kern would need a permit to fill it. Councilmember Krebsbach said she wants to be sure that the applicant understands this. Councilmember Duggan suggested that staff send a letter to Mr. Kern with information about this discussion and to let him know that this is a wetland and any further work done needs to come through the city in the future.

Councilmember Duggan asked to have a Friendly Amendment added that the letter be sent to the applicant informing him of the restrictions on further work. Councilmember Vitelli accepted the Friendly Amendment.

Ayes: 4
Nays: 0

CASE NO. 09-30, KUTOFF

Mr. Sedlacek introduced Case No. 09-30 for a Zoning Ordinance Text Amendment where the applicant wishes to move his business into the former Checker Auto Parts building. Materials Processing Corporation (MPC) is a business that is currently located in the City of Eagan. Mr. Sedlacek noted that this company helps the City of Mendota Heights during their spring cleanup, collecting electronic recyclables and processing them, boasting that zero waste goes to the landfill. This type of operation is allowed inside the industrial park, however the applicant has a small retail function that they would like to have at this property, located at 2300 Pilot Knob Road.

The applicant is requesting an ordinance text amendment to allow a conditional use permit for an accessory retail use. The Planning Commission had concerns that this is accessory to an allowed principal use of the facility and the conditions listed in the ordinance draft are ways that the city could find comfort or a level of confidence that this will remain an accessory use and is appropriate for the request. The conditions that the Planner recommended and Planning Commission discussed at their August 25th meeting were that it is enclosed within the existing building of that principal use in the industrial district and that the total retail area would be 5% of the gross floor area of the principal use. This 5% was a recommendation by the Planner as it will keep it only as an accessory use. There is also office space within the industrial park. The applicant is agreeable with that, but it is unknown how any future applicants might feel about that thus this is the reason why the 5% was determined.

The design shall be in compliance of code to make sure retail does not create issues on the existing building, and there must be adequate parking for retail use, and there must be retail traffic parking separate from the industrial users. Signage must meet code requirements so if a person wants to have this conditional use permit, they have to have the understanding that there is no special exceptions for signage.

Landscaping shall be in compliance with the existing city code. The Planning Commission set hours of operation to be between 9:00 am and 5:00 pm, and the proposed language allows this to be seven days a week. The applicant has stated that they would appreciate flexibility on this. This would be a conditional use, and the time to get the language correct in the code is now.

There was a public hearing held on August 25th and there was one individual that is a Mendota Heights resident and also works with retail spaces in industrial areas that felt this was a good application and is consistent with what other communities are offering for industrial users. The Planner recommended approval of the language as drafted and the Planning Commission supported that recommendation, adding the hours of operation to the language.

Councilmember Vitelli said this sounds like it would act as a “city desk” and believes that this process has been around a long time and is a good idea.

Councilmember Krebsbach asked if the retail that was approved for the Hilton would be seven days a week. Mr. Sedlacek said he does not recall if there were limited hours of operation on that. Councilmember Duggan said it was seven days a week and the hours of operation were from 7:00 am until 11:00 pm. Councilmember Krebsbach said this is a different type of retail and she is fine with this. Mr. Sedlacek said the applicant is currently operating from 11:00 am to 5:00 pm on Tuesday through Friday, and they feel they need some flexibility as it is unknown what the demands will be. Councilmember Duggan pointed out that the Planning Commission had discussed and recommended 8:00 a.m. to 5:00 p.m.

Ms. Diehm said the item before the Council this evening is an amendment to the zoning code. The applicant will actually submit a conditional use permit application separately, and the only thing that needs consideration at this time is the zoning ordinance change which will allow the applicant to come forward later to make that application. When looking at hours of operation, it is very possible that they will only operate from 11:00 am to 5:00 pm, but the code needs to provide the broadest range that the city would consider giving any applicant.

Councilmember Krebsbach said she wants to be sure that it is very clear in the language that it is 5% of the square footage, and to make sure that this is a business that is directly related to what is going on in that building.

Ms. Diehm said the language is that the retail sales portion of the business shall be an accessory use to any permitted or conditionally permitted use in the I-Industrial district. Councilmember Krebsbach said she would like the language to be stronger. Ms. Diehm said the language also refers to 5% of the principal use, but language could be added that says the retail sales portion of the business shall be an accessory use to the use of that building only. Ms. Diehm recommended that the change simply be to reflect the following: “the retail sales portion of the

business shall be an accessory use to ~~any~~ the permitted or conditionally permitted use.

Councilmember Vitelli moved to adoption of Ordinance 424, "AN ORDINANCE AMENDMENT TITLE 12, CHAPTER 1 OF THE CITY CODE, THE CITY'S ZONING ORDINANCE, TO ALLOW RETAIL SALES AS A CONDITIONAL USE IN THE I-INDUSTRIAL DISTRICT".

Councilmember Duggan seconded the motion.

Councilmember Krebsbach asked that staff see if there is any more that can be added to ensure that the retail store is directly related to the business operating in the facility. Councilmember Duggan said that is a separate issue and this is a general text amendment to reflect all areas of the industrial district. Councilmember Vitelli said he believes this is a clear definition. Acting Mayor Schneeman said she believes this is fine as well as it is stated.

Councilmember Duggan said during discussions with the Hilton project, it was discussed that the retail space had to be within a certain distance of the freeway and does the city have any control here in relation to the proximity to major roads. Ms. Diehm said this amendment does not include any restrictions.

Mr. Sedlacek said there was a difference with the Hilton as the Hilton was a standalone commercial use. It could be added as a condition.

Councilmember Krebsbach said she is fine with this application.

Acting Mayor Schneeman asked Ms. Diehm if she was satisfied with the amendment. Ms. Diehm said she is.

Councilmember Duggan said this is an industrial area and in relation to the hours of operation, would this allow retail businesses to be open on Sundays, suggesting that the hours be limited to Monday through Saturday. Councilmember Vitelli said it should be seven days a week because if there is a market, the business would want to be open to serve the community, and if the market is down, they can scale back their hours.

Ms. Diehm asked for clarification that the hours be from 8:00 am to 5:00 pm or 9:00 am to 5:00 pm. Councilmember Vitelli said he would be comfortable with 8:00 am to 5:00 pm.

Councilmember Krebsbach said she appreciates the hard work from the Planning Commission.

Ayes: 4
Nays: 0

CASE NO. 09-31, CUNNINGHAM

Mr. Sedlacek said the applicant was not available this evening and asked that this case be tabled.

CASE NO. 09-32, ADEMITE

Mr. Sedlacek stated that the applicant is requesting a 5' variance to the front yard setback for a covered front entry and bay window at 804 Park Place. Mr. Sedlacek said there was some confusion at the Planning Commission over the drawings that indicated the front yard setback and noted that Exhibit A is the correct drawing.

The applicant feels that the hardship is the placement of the home combined with the exposure to the west created a damaging condition to the front of the home and the entry had to be replaced three times since the home was constructed in 1991. The owners feel that an entry with closed sides would stop the damage from happening. The unique condition is that the home was constructed right on the front yard setback so no improvements can be made on this home without a variance. In the past, the City Council and the Planning Commission have considered a number of these requests and found that a covered front entry is a reasonable use however the Planner noted that these applications included open sided entries.

The Planning Commission held a public hearing on August 25th and after much debate, agreed to the Planners recommendation to approve the 5' variance to the front yard setback.

Councilmember Krebsbach asked how deep the entrance was. Mr. Sedlacek said it is 4' 9" and added that the sides are closed.

Councilmember Vitelli said he was at the Planning Commission meeting and there was a long discussion, and

that he supports this request as it would be an improvement to the appearance of the home and seems appropriate. The applicant discussed some of the damage that has been done over the past ten years because of the wind.

Councilmember Duggan said he has asked staff to support and justify numbers 3 and 4 in the resolution. Mr. Sedlacek said staff does not support those recommendations. It is matter for the Council to decide the validity of these findings as proposed. Mr. Sedlacek said these are the findings that Planner Gritman extracted from the application materials. Councilmember Duggan asked that the legal staff take a look at these items as he does not think they are necessary. Ms. Diehm said under the “undue hardship” statute when it comes to variance procedures, the reasonable use is sometimes confused and the proper analysis is whether or not the request that has been made is reasonable – is it reasonable that the applicant would like to add this entryway to their house. This does not mean there is no other reasonable use. The resolution in this case would be defensible without this, but having it in there would not hurt the city at all.

Councilmember Krebsbach said she is in support of this and believes that number 4 implies that the house was built in the 30-ft setback so no adjustments can be made without a variance. Councilmember Duggan said that was the choice of the builder.

Councilmember Krebsbach said there is no way a protective entrance can be constructed without a variance. Councilmember Duggan said an awning could provide some protection. Councilmember Krebsbach said she will support this and if the Council wants to change item 4, she would have it included that the house is on the 30-ft. setback and there is no other option. Without a variance it is not possible to have any kind of protected entrance.

Councilmember Vitelli moved adoption of Resolution No. 09-73, “RESOLUTION APPROVING A 5’ VARIANCE TO THE FRONT YARD SETBACK FOR A COVERED FRONT ENTRY AND BAY WINDOW AT 804 PARK PLACE DRIVE.”

Councilmember Krebsbach seconded the motion.

Councilmember Duggan said when he reviewed the variance ordinance challenges, he questioned where it talks about the conditions allowed by Chapter 12-11-5 and does not see how it applies to the language within the ordinance in relation to the variance and does not have any substance going forward. Councilmember Duggan said he believes that in this case an awning would serve a purpose and would prefer to use the word diminimis.

Councilmember Krebsbach said in this climate, the applicant is providing a sheltered entrance to their home which could not be done with an awning.

Ayes: 4

Nays: 0

CASE NO. 09-33
CITY OF MENDOTA HEIGHTS

Mr. Sedlacek introduced Case No. 09-33 for a Zoning Ordinance Amendment to allow customized assisted living facilities as a conditional use in the R-1 Family residential district.

Mr. Sedlacek said this is a request for a conditional use permit language in the zone to allow up to seven individuals to reside in an assisted living facility if a certain number of conditions are met.

Currently, the City of Mendota Heights allows up to six individuals as defined in state law and the city needs to treat that as a single family home. There are a number of such facilities in the city which have not created a problem, recognizing concerns from neighbors when such facilities are started.

This would answer the question that comes up over what happens when a house has one room available and there is a couple where one individual needs assisted living. There have been concerns raised that some elderly couples are being split up when one or both are in need of assisted living care, which is becoming an increasing trend in the community. Councilmember Vitelli has had some personal experiences on how this impacts on families. City staff has been working on these concerns with current providers of Heart to Home assisted living facilities.

The language in the proposed amendment would allow seven individuals under the conditions that:

- the assisted living facility maintains a state license for such care,
- the facility can have no more than six sleeping rooms, including the rooms utilized by the host/manager or personal care attendants,
- of those seven individuals two of the facility occupants are legally married and share a room,
- the facility residents shall be 65 years of age or older (years of age is mandated by the state),
- the applicant must provide proof that the room size meets current state licensing standards for two persons (this condition was added by the Planning Commission),
- facility shall be constructed or altered in a manner that is consistent with single family residential character of the neighborhood,
- all applicable requirements of the state building and fire codes are satisfied,
- the emission of noise shall be in compliance and regulated by the State of Minnesota pollution control standards,
- the property shall at all times be compliant with the city's property maintenance code as well as other implacable municipal codes.

Mr. Sedlacek said the state licenses these facilities in terms of staffing, room size, code compliance and the idea of having these clauses in the amendment gives the city a chance to review on a case by case basis. The standard of seven residents is a city standard and will not change even if the state standard changes.

Mr. Sedlacek said the Planning Commission expressed concerns about the timelines and processes that these residents will have to go through when choosing to move into such facility, therefore the city may want to allow this as a permitted use instead of conditional use. If the city chooses to make this a permitted use, there would be no opportunity to review each case on a case by case basis. The benefit of a permitted use would be that the city would not need to publish a notification as there would be for a conditional use permit, and many times there is a fear of the unknown, creating a firestorm of residents that receive such notification.

Ms. Diehm said a conditional use permit when approved, attaches to the property. This way, the city is providing a conditional use permit for that property. It is possible that an applicant can apply for and receive a conditional use permit to give themselves the flexibility to allow that 7th person, even if they have no need for it, to stay with their spouse and move into a shared room with that spouse. That property then has that ability to take advantage of that 7th person whenever they need to. The conditional use permit is not particular to that person wanting to move in.

Councilmember Vitelli said the state license makes it unnecessary for the facility to come to the Planning Commission and the City Council each time, but perhaps the city could require a license to give the city some control and to allow city staff to check in periodically and bring forth any issues that need addressing. Ms. Diehm said these facilities are already licensed by the state and should there be a municipal level of licensing, it would be to request verification from the facility that state standards have been met. Ms. Diehm added that the licensing would be applied to each individual structure. Ms. Diehm said the city can issue as many licenses that they wish to.

Councilmember Krebsbach said she would rather stay with the conditional use permit.

Mr. Sedlacek said the city can also issue as many conditional use permits also.

Councilmember Duggan said the conditional use permit gives the city more control as a city and as a City Council. Councilmember Duggan said in looking at the conditional use language, he has found that the language talks about impact of the use on the neighboring land and public land and talks about an application for a conditional use permit needs to have site development, floor area ratio, dimensions of the home, sewer and water information, grading and landscaping. This may be already in place in a home that has approached the state to receive a license. Would this then bypass the city's process of dimensions, landscaping, grading, etc. which have already been in place. Councilmember Duggan said he is much more ready to stay with the conditional use process, and this process according

to Planner Gritman can be changed to a permitted use should the Council wish to.

Councilmember Vitelli said he agrees with the conditional use process.

Councilmember Krebsbach said she will support this as well.

Councilmember Krebsbach moved to adopt the Ordinance Number 415, AN ORDINANCE AMENDING TITLE 12, CHAPTER 1 OF THE CITY CODE, THE CITY'S ZONING ORDINANCE, TO ADD CUSTOMIZED (ASSISTED) LIVING FACILITIES AS A CONDITIONAL USE IN THE R-1, ONE-FAMILY Residential District," amended to .

Councilmember Duggan seconded the motion.

Councilmember Duggan said under number 10, the language says that the property shall at all times be found in compliance with the city's property maintenance code as well as all other applicable municipal codes, and he would like to add a condition that the parking requirement of four cars per driveway be included in the language. Ms. Diehm said language could be added at the end of item 9 to say "including but not limited to the minimum parking requirements." It was the consensus to add the language.

Ayes: 4

Nays: 0

Councilmember Vitelli invited some staff members of one of the city's assisted living facilities to come to address any questions the Council may have. Co-owners of this particular facility introduced themselves as Paulette Vernon, Director of Nursing and Amy Knutson, Director of Housing. Ms. Vernon and Ms. Knutson asked for clarification from staff on the conditional use permit process. Ms. Diehm reviewed the process.

Councilmember Vitelli said his parents are now living at the Pagel facility and this type of facility is much needed in the community, and said this program is fantastic. These facilities are tremendous assets to the community and they should be encouraged.

Councilmember Duggan asked if it would be appropriate for these facilities to have brochures available at City Hall. Mr. Sedlacek said the city usually does not promote businesses.

BUDGET DISCUSSION

Finance Director Kristen Schabacker said on August 25th the City Council held a budget workshop and the adjustments have been made to the budget and the preliminary levy for 2010. The preliminary levy is 1.665% greater than 2009. The preliminary levy will be certified by Dakota County prior to September 15th and in November, the County will send out parcel specific notices based on this preliminary levy to the residents. This year is the first year that the city is not required to hold a separate Truth In Taxation hearing. Instead, the city will discuss the final budget and the final levy at its December 1st regular City Council meeting and that information will be included on the notices that the residents receive in November. The residents will have an opportunity at that time to discuss with the Council the city's portion of their property taxes. It is estimated that the residents will see a slight decrease in the city's portion of their taxes. After adoption of the following resolutions, a certification will be sent to the County.

Councilmember Duggan moved adoption of Resolution No. 09-74: "RESOLUTION ADOPTING THE 2010 PROPOSED BUDGET," Resolution No. 09-75, "RESOLUTION APPROVING TENTATIVE 2009 LEVY COLLECTIBLE IN 2010," and Resolution No. 09-76, "RESOLUTION APPROVING FINAL 2009 TAX LEVY FOR SPECIAL TAXING DISTRICT NO. 1 COLLECTIBLE IN 2010."

Councilmember Krebsbach seconded the motion.

Ayes: 4

Nays: 0

COUNCIL COMMENTS

Councilmember Vitelli said he is very proud of this city and while working through the budgeting process recently, he has found that it is so wonderful to see a city staff that brings forth a budget that the City Council does not need to chop away on. The Council had to make a few small adjustments and it is encouraging to see everyone work well together. After the budget meeting, Councilmember Vitelli sat in on the Planning Commission meeting and it

reminded him that these city commission members are very dedicated.

Councilmember Duggan said he supports and endorses Councilmember Vitelli's comments. Councilmember Duggan said the Council's thanks also go back to previous councils that have built up the reserves that allow the city to continue. There is a lot of pride in this city that is represented through the residents.

Councilmember Duggan reminded everyone of the September 10th concert to be held at The Village.

Councilmember Duggan asked about the Haggerty case for a fence and asked if the applicant is complying with the 60-day rule. Mr. Sedlacek said Ms. Haggerty at 790 Ridge Place had constructed a fence that did not meet code and a building permit was not obtained. Staff sent a letter of enforcement to Ms. Haggerty requiring that the fence either be removed or have a planning application submitted in time for the July Planning Commission meeting. That requirement was met and the application was heard at the July Planning Commission meeting and was tabled to August. Just before the August Planning Commission meeting, Ms. Haggerty's attorney became involved and asked for additional time to allow the attorney to review the case. The issues in place include a code enforcement request contingent upon a planning application; this application has been allowed due process before any action is taken. The planning application was found to not be technically complete and an administrative date for completion was assigned. The applicant then requested an extension of the 60-day review, which expires on September 13th. Staff is now working on language to assign that administrative date. Code enforcement action is pending, planning application will be discussed at the September 22nd Planning Commission meeting.

Councilmember Krebsbach commended Acting Mayor Schneeman for her chairing of the meeting.

Councilmember Krebsbach said there was a golf outing for children on August 22nd at the Par 3 and was well attended.

Councilmember Krebsbach said she concurs with Councilmember Vitelli on his comments about how well the city is managed and there is a close working relationship between Council and staff, and also among the Council.

Acting Mayor Schneeman said she has received a phone call regarding the flushing of the fire hydrants and reminded residents to run their water for half an to clear the lines.

Acting Mayor Schneeman said she had received a comment today about how wonderful the city is and how well it is run.

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 8:45 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

Mary Jeanne Schneeman
Acting Mayor