

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, November 4, 2008

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 8:30 p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER

Mayor Huber called the meeting to order at 8:30 p.m. Mayor Huber said the late start of the meeting was due to the election polls closing at 8:00 p.m. The following members were present: Councilmembers Krebsbach, Schneeman and Vitelli. Councilmember Duggan was excused.

PLEDGE OF ALLEGIANCE

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

AGENDA ADOPTION

Councilmember Schneeman moved adoption of the revised agenda as presented. Councilmember Vitelli seconded the motion.

Ayes: 4

Nays: 0

APPROVAL OF MINUTES

Councilmember Schneeman reminded everyone that the Council is now submitting their corrections to the City Clerk ahead of the meeting. Councilmember Schneeman said if there are important and substantial changes that need to be made, those items will be talked about during the public comments.

Councilmember Vitelli moved to approve the minutes of October 21, 2008 as presented. Commissioner Krebsbach seconded the motion.

Ayes: 4

Nays: 0

CONSENT CALENDAR

Councilmember Vitelli moved approval of the consent calendar as presented, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the October 28, 2008 Planning Commission Meeting.
- b. Acknowledgement of the Minutes from the October 14, 2008 Parks and Recreation Commission Meeting.
- c. Acknowledgement of the Building Activity Report for September 2008.
- d. Authorization for Repair of Garage Doors at Public Works.
- e. Authorization for Purchase of Light Package for 1 Top Truck.
- f. Approval of Exterior Window Installation at 1150 Centre Pointe Curve.
- g. Adoption of Resolution No. 08-81: "A RESOLUTION SEEKING FUNDS FROM DAKOTA COUNTY FOR CONTINUATION OF THE COMMUNITY LANDFILL ABATEMENT PROGRAM."
- h. Approval of the List of Contractors, dated October 31, 2008.
- i. Approval of the List of Claims, dated November 4, 2008, totaling \$366,570.81.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

PUBLIC COMMENTS

Dick Rupert, 690 Second Avenue, asked to speak about the Avenues and the unregulated intersection of Second Avenue and Vandall. Mr. Rupert said the new street reconstruction was a good project, but people are driving much faster in this area. Mr. Rupert talked about the safety concerns with all the children in the neighborhood.

Mr. Rupert said it was his understanding that the police department did a traffic study in the area, and talked to residents. Mr. Rupert said no one talked to him.

Mr. Rupert said the landscaping by the intersection is mature and somewhat causes visibility concerns. He requested that there be some type of regulation on that intersection as it is dangerous.

Public Works Director John Mazzitello said he almost ended up in Mr. Edgerton's front yard last Friday trying to avoid a school bus coming down Second Avenue.

Mayor Huber explained how public comments such as this are submitted to Staff to follow up on. Mayor Huber asked Mr. Mazzitello to give an update on the Traffic Safety Committee. Mr. Mazzitello said Traffic Safety Committee debated controls (stop signs, yield signs) at both the intersections of Second and Vandall and at First and Vandall. Through these debates, it was concluded that there should be a speed study. The results of this study will then help Staff direct what actions need to be taken. Mayor Huber said before this committee was formed, the public comments were directed to the police department to take care of them. Now the committee has been formed that include a City Council member, a member of the Public Works, the City Engineer, the Police Chief, and a Planning Commission member. Mayor Huber said the Council will wait for a recommendation from this committee on these concerns.

Jeff O'Connell, 562 Stone Road, requested a parking permit for his family for the winter. Mr. O'Connell said he has four children, three of whom are drivers. Mr. O'Connell said he has about 300 feet of street parking available to him and understands that the parking ban was put into place because of rental property. Mr. O'Connell said he feels that residents with children of driving age, and having cars are being unfairly being punished by the City Council by not being able to park in the street. Mr. O'Connell said he feels it is petty to have to come before the Council asking for a parking permit. Other cities have on street parking, and his neighbors do not have any objections to his parking on the street.

Mayor Huber said the Council initiated this parking ban a few years ago, and over those years, complaints have dropped.

Councilmember Schneeman said this parking ban was put in place for not only the plowing, but for rental properties. There are a lot of people parking vehicles in cul-de-sacs as well.

Mayor Huber said there are no provisions in the ordinance for exceptions. Mr. O'Connell said the Council can change the ordinance.

Councilmember Schneeman said a lot of residents do not park in their garages or driveways, and park on the street, which is upsetting to a lot of people.

Mr. O'Connell said it seems that the Council took measures to solve problems with rental properties. Councilmember Schneeman said it was not just the rental properties, although that was a concern.

Councilmember Krebsbach said all the members of the Council voted in favor of this ban and the ban was enforced. Councilmember Krebsbach said she tried to look into how to permit parking, but it became a cost issue to the city and would be difficult for police enforcement. Councilmember Krebsbach said she is always in favor of looking at ways to make permitting possible on a limited basis.

Councilmember Vitelli said he wants to leave the ban as it is.

Mr. O'Connell said that is unfortunate for families with more cars to not be able to park in the street and said he appreciated the Council's time. Councilmember Krebsbach said she appreciated that Mr. O'Connell came in.

ASSESSMENT HEARING
BRUCE COPPOCK RESIDENCE

City Administrator Jim Danielson said that Mr. Coppock discussed his need for sewer service with the City Engineer. There was sewer available in the nearby subdivision (Hidden Creek Subdivision). Mr. Coppock petitioned to have this service extended to his property, which he has since received. Mr. Coppock paid 40% of the project cost (\$37,000); the total cost being \$77,545.60.

Mayor Huber opened the public hearing. Seeing no one come forward wishing to speak, Councilmember Schneeman moved to close the public hearing.

Councilmember Krebsbach seconded the motion.

Ayes: 4

Nays: 0

Councilmember Vitelli moved adoption of Resolution No. 08-82: "A RESOLUTION ADOPTING AND CONFIRMING ASSESSMENTS FOR THE BRUCE COPPOCK RESIDENCE PROJECT (PROJECT #200812)." Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

ASSESSMENT HEARING CALLAHAN PLACE

Public Works Director John Mazzitello said M.S. 429, which is a mechanism under which this project is funded, requires that an assessment hearing be held prior to the end of the calendar year to avoid paying an additional year of interest on borrowed funds. Another requirement is that the assessment hearing is not to be held until the project is considered substantially complete. Because of the construction schedule of Callahan, and because Staff is running up against the end of the calendar year, this is the only Council meeting scheduled that would allow the hearing to be held at the time of substantial completion, while still being able to process the assessments by the end of the calendar year. Unfortunately, the calendar has fallen on Election Night.

Mr. Mazzitello said the Callahan Place street rehabilitation project (pavement, curb and gutter, utility upgrades, storm sewer installation) total amount to be assessed is \$248,000 over 31 properties; roughly \$8,000 per parcel. In 2002, a feasibility study was completed for the project that had an assessment level substantially lower than that, but that project did not include utility upgrades. The combination of adding the utility and the increased cost of material and labor cost caused that figure to rise.

Mayor Huber opened the public hearing.

Jim Mazzoni, 640 Callahan Place, asked for clarification about the utilities. Mr. Mazzitello said the utilities include the sanitary sewer and water mains, as well as storm sewer with the curb and gutter.

An unidentified resident asked for clarification on the payment process. Mr. Mazzitello said the assessment can be applied to property tax bills, payable over 19 years. Residents can also choose to pay in advance at City Hall or the County. Those who pay in advance will not have to pay interest. Mayor Huber said this needs to be done within 30 days from this evening. Mayor Huber said the interest rate is 6%.

Seeing no one else come forward wishing to speak, Councilmember Vitelli moved to close the public hearing.

Councilmember Krebsbach seconded the motion.

Ayes: 4
Nays: 0

Councilmember Krebsbach said she received comments from a resident recently that the project was well done.

Councilmember Duggan moved to adopt Resolution No. 08-78: "A RESOLUTION ADOPTING AND CONFIRMING ASSESSMENTS FOR THE CALLAHAN PLACE PROJECT (PROJECT NO. #200813)."

Councilmember Schneeman seconded the motion.

Ayes: 4
Nays: 0

**SOMERSET COUNTRY CLUB
CASE NO. 08-28**

Assistant to the City Administrator Jake Sedlacek introduced Planning Case 08-28 for Somerset Country Club. The application is for a conditional use permit to make some renovations to the existing bath house.

Mr. Sedlacek reviewed a site plan showing the location of 1416 Dodd Road. Under city code, golf

courses are a conditional use permit in a residential zone. The Planning Commission asked if a swimming pool is an allowed use. Planner Steve Gritman then told the Planning Commission that this was an allowed use.

The proposed project is to expand the size of the current bath house, to include a snack bar and laundry area, and to remove a free standing concession stand.

The Planner felt this was an appropriate use of this site and this application in fact removes a building while increasing the square footage. The Planner felt that this application was a nice treatment of the area and is appropriate to the conditional use permit and the use of the site.

The Planning Commission's concerns related to the extent of the project and the timeline of the project. The applicant indicated that they would like to start this project as soon as they are able to procure the permits. There were no comments at the public hearing and the Planning Commission voted unanimously to recommend approval of the project.

Councilmember Krebsbach asked why the Planning Commission would be concerned about the swimming pool being an acceptable use if there was already a pool on the property. Mr. Sedlacek said Commissioner Viksnins wanted to make sure that a swimming pool was an appropriate use as a part of the golf course.

Councilmember Krebsbach said she feels the architecture is very good on this project.

Councilmember Vitelli moved to adopt Resolution No. 08-84: "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AT 1416 DODD ROAD.

Councilmember Schneeman seconded the motion.

Ayes: 4
Nays: 0

TELECOM TRANSPORT MGMT
CASE NO. 08-29

Assistant to the City Administrator Jake Sedlacek said this is a similar application to one that was

just placed on the city's water tower. The proposed site is an AT&T-owned tower on city property located at 1196 Northland Drive.

The applicant would like to place a two-foot round antenna on the tower. There was a similar application before the Council in 2007, which was denied as the Council felt there was more information needed on the lease and how this related to communications equipment as the lease on this site specifically mentions terms for additional communications carriers. At that time, the Council did not feel that the applicant provided enough information on that matter. The applicant also did not specify where the ground equipment was going to be located. Mr. Sedlacek provided to the Council the findings from that application.

Staff now feels that this application addresses those issues. The application is not for the use of equipment and is not a cellular antenna per se, but this proposed antenna increases the capacity of the existing antennas. Mr. Sedlacek said at the Planning Commission, Commissioner Hennes asked the applicant how this antenna will affect his cell phone. The applicant responded that the only real impact is that there is less likelihood of getting a network busy signal. This proposed antenna would serve only as a backup service to communications; the Minnesota Public Utilities Commission has actually commented on this and issued a "Niche Certificate" which states that this is not a cellular antenna but something different.

Staff feels that the applicant has done a nice job of giving additional information that was not provided the last time around.

Mr. Sedlacek reviewed the site plan showing the antenna location in conjunction with the other antennae on the tower. The applicant feels that there are not issues with the lease terms as this does not impact AT&T's ability to lease this to a third cellular tower.

The applicant has also provided a letter from Howe Engineering clarifying that there will not be interference with existing users and city frequencies, and may in fact enhance the city's frequencies.

Mr. Sedlacek said this is a conditional use permit and an allowable use in this zone. The Planner also feels that this is a reasonable use of the property and will not negatively affect the neighborhood.

AT&T has provided a letter of consent to TTM for use of the ground space and feels it will not interfere with their ability to place a third carrier on the tower, and this would be an addendum to the existing lease allowing the City and TTM to have a ground space lease for the equipment.

Councilmember Krebsbach said she believes the rent seems to be low. Mr. Sedlacek said Staff has provided Council the existing rents on this tower and the water tower. Most cities look at this just as a use of the space, and \$125 per month is reflecting what is currently on that antenna. On the water tower, the rate is \$220. These are well within the going rate (\$121) for this type of use.

Councilmember Vitelli asked if there is additional ground equipment. Mr. Sedlacek said there is.

Councilmember Vitelli asked for a review of the rationale of the fees. Mr. Sedlacek said the fees are the normal fees on this tower. The water tower average cost per antenna is \$211. The average cost per antenna on the tower today is \$121. This is the logic that was used to come up with the proposed rate. This proposed antenna would be the 20th antenna on that tower.

Councilmember Vitelli asked what the lease revenue to the City is for that tower. Mr. Sedlacek said it is \$2,300 per month. The existing lease is with AT&T and they are allowed to have a second carrier at no charge, but a third cellular carrier would be an additional \$500 per month. Mr. Sedlacek said the question the last time was "is this

a cellular carrier”, and should the \$500 apply? The previous applicant on the project was not able to come up with that information. It is therefore AT&T’s position that this is outside of the lease agreement because it is not an additional carrier. City Attorney Tami Diehm acknowledged that this makes sense.

Councilmember Krebsbach asked why the resolution includes the \$121 rental rate. Mr. Sedlacek said the resolution authorizes Staff to enter into a lease, and Staff wanted to have a final number in there. Councilmember Krebsbach asked why the number is not \$125. Mr. Sedlacek said that is up to Council.

Ms. Diehm said it would be perfectly appropriate if the Council wished to strike that language. The lease can come back to the Council and at that point, the Council can make a determination on the lease amount. Councilmember Krebsbach said the Council could put a different number in there. Mayor Huber said the Council could also strike #2 entirely. Councilmember Krebsbach suggested putting a number in there.

Councilmember Vitelli suggested having Item #2 under the conditions say that the Council agrees with this application subject to an agreed upon negotiation with AT&T and other carriers; this will leave the Council open to come back and say this is the price. Mayor Huber said it would be a two-step process: 1) approve the conditional use permit; 2) applicant would come back with the results of their negotiations with this apparatus up there.

Councilmember Krebsbach said the Council should be looking at what would be a better benefit to the City.

Councilmember Vitelli suggested Staff come back with their rationale on a number that they recommend, providing more explanation why they chose that number.

Councilmember Krebsbach said she would not be interested in the \$121.

Councilmember Vitelli moved to adopt Resolution No. 08-84: "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A TWO-FOOT ROUND ANTENNAE LOCATED AT 1196 NORTHALND DRIVE WITH THE CONDITION THAT ITEM #2 SAYS APPROVAL IS SUBJECT TO THE SUCCESSFUL NEGOTIATION AND COUNCIL APPROVED LEASE PRICE."

Debra Weiss, Independent Consultant for TTM, said the rationale with how city staff came up with the \$121 or the \$125 is the initial lease between AT&T and the City, which pretty much goes into more depth about the premise and property that the City leases. It is not so much deterrent on the actual mono pole itself because the pole is owned by AT&T and that becomes a whole different avenue.

Ms. Weiss said when looking at a standard wireless carrier, they usually rent a 10' x 20' or a 12' x 20' lease area, which then a third carrier would come in and rent an additional 12' x 20' area. This application is utilizing 16 sq. ft, taking an electrical two-panel which sets up against the existing shelter within the existing AT&T leased perimeter of their initial lease; whereas, a third carrier would come in and place another building on to city property that is not already defined in an existing lease.

Councilmember Vitelli said there is not much opposition on this and asked the applicant if she was fine with his suggested resolution. Ms. Weiss said that is fine. Her concern is that the previous application was denied, which meant that TTM had to wait 6 months to prepare a proper application packet, and they need to get this built before the weather turns. Councilmember Vitelli said they should be able to do this by the next Council meeting. Ms. Weiss said she was agreeable to this.

Councilmember Schneeman seconded the motion.

Ayes: 4
Nays: 0

COUNCIL COMMENTS

Councilmember Krebsbach said Lilydale Council Member Marilyn Lundberg circulated email that Al Singer (Dakota County) is looking for two bluff resident applicants by November 15th to join in on an application to have part of their property put into a conservation easement. Those property owners would receive tax advantages and would be the first two applicants to go forward. Mr. Danielson said he also received a copy of this email.

Councilmember Schneeman congratulated Mayor Huber, Councilmember Krebsbach and Councilmember Vitelli on their re-election.

Councilmember Schneeman said she received a call from a Lilydale resident saying that Mayor Huber does a wonderful job in listening to his constituents.

Mayor Huber acknowledged the recent passing of long-time city planner Howard Dahlgren and city resident Dr. Sam Hunter.

Mr. Danielson said he was asked by Councilmember Duggan to announce that that the 60th Annual Firefighters Ball will be held November 15th at the Royal Cliff in Eagan. Music will be provided by the Rockin' Hollywoods. Tickets can be purchased at City Hall for \$8.00; \$10.00 at the door.

ADJOURN

There being no further business to come before the Council, Councilmember Schneeman moved to adjourn to the Election Canvassing Board on Wednesday, November 05, 2008 at 7:30 p.m. Councilmember Krebsbach seconded the motion.

Ayes: 4
Nays: 0

Time of Adjournment 9:30 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

John J. Huber
Mayor