

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, December 2, 2008

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:00 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 (arrived at 7:10) and Vitelli. Councilmember Schneeman was excused.

PLEDGE OF ALLEGIANCE

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

AGENDA ADOPTION

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

Ayes: 3
Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved to approve the minutes of November 18, 2008 as corrected. Commissioner Vitelli seconded the motion.

Ayes: 3
Nays: 0

CONSENT CALENDAR

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

- a. Acknowledgement of the Minutes from the November 13, 2008 Parks and Recreation Meeting.
- b. Acknowledgement of the Minutes from the November 25, 2008 Planning Commission Meeting.
- c. Acknowledgement of the Building Activity Report for November 2008.

- d. Approval of Sign Permit for 2060 Centre Pointe Blvd, Suite #9 – Bio Drain Medical.
- e. Approval of City Hall Closed Circuit TV (CCTV) Repairs and Updates.
- f. Approval of the List of Contractors, dated November 26, 2008.
- g. Approval of the List of Claims, dated December 2, 2008, totaling \$353,853.17.

Councilmember Vitelli seconded the motion.

Ayes: 3

Nays: 0

BID AWARD

Fire Chief Maczko introduced the members of the committee formed to research and develop specifications for a new fire engine (Captain Scott Goldenstein, Assistant Training Officer Roy Kingsley, Firefighter Jamie Lerbs, Firefighter Dale Stein, Firefighter Pat Noack and Firefighter Justin Fitzgerald) as well as retired Firefighter George Lowe.

Chief Maczko said the fire department is seeking approval to move ahead with the purchase of a new 1500 GPM fire engine with foam capability. Equipment is usually replaced after about 25 years in service. The new truck is designed to be safer and easier for freeway use.

Bids were received from Crimson Fire and Custom Fire Apparatus. The department has had previous experience with Custom Fire Apparatus, and feels this is a high quality and reputable company to deal with. Custom Fire Apparatus' bid was \$453,815. The committee had some deducts built in to the truck as far as options that they would like to have, but are not necessary and therefore has decided this equipment was not necessary.

The committee is recommending the Council award the bid to Custom Fire Apparatus for Chassis Option 1 less the rear camera system and the deluge nozzle and the upgrade of the front axle for a total bid price of \$449,796.

It is also recommended that the fire department proceed with the advertising of the current 1986 Engine for sale at a starting price of \$45,000 and give the Fire Chief and City Administrator the authority to negotiate the best price subject, if necessary, to final approval of the City Council.

Chief Maczko said the committee is also proposing to eliminate the performance bond which would save \$3,200 off the bid price. The city will also retain the right to sell the truck prior to delivery of the new equipment for a price starting at \$40,000 to \$45,000.

It is noted that Councilmember Krebsbach is now in attendance.

Councilmember Vitelli moved to award the bid to Custom Fire Apparatus for their low bid and choose a financial option for funding the purchase of the new truck, and to advertise the sale of the old truck. Councilmember Duggan seconded the motion.

Ayes: 4

Nays: 0

Chief Maczko asked if they can take advantage of the prepay option. Mayor Huber said Finance Director Kristen Schabacker is currently working on that option.

CASE NO. 08-31, MAGER

Assistant to the City Administrator Jake Sedlacek said this case was before the council in 2003 for a variance to the side yard setback. The owner is proposing to construct an addition to the existing garage. The property is zoned R-1 and backs up to Friendly Hills Middle School. Mr. Sedlacek noted the small piece of property to the south which is owned by the city and was site of a former water tower.

Mr. Sedlacek said the lot is only 75-ft wide and is narrower than a typical lot in Mendota Heights. The hardship for the variance has been identified as the variance is necessary to put the property to reasonable use, the narrowness of the lot is a unique circumstance not caused by the owner and there

appears to be no alternatives for expansion of the garage.

The applicant feels there are no issues with the drainage of water from the hilly neighboring lot, but will be adding an extra course of block to the foundation to be safe.

There were not public comments at the public hearing at the November 25th Planning Commission meeting, and the Planning Commission voted 6-0 (Povolny excused) to recommend approval of the variance.

Councilmember Vitelli moved to adopt Resolution No. 08-89: "A RESOLUTION APPROVING A FIVE FOOT SIDE YARD SETBACK VARIANCE AT 729 MOHICAN COURT BASED ON THE FINDING OF FACT AS OUTLINED IN THE STAFF REPORT."

Councilmember Duggan seconded the motion.

Ayes: 4

Nays: 0

CASE NO. 08-11
MENDOTA MALL UPDATE

Mayor Huber said the action at this time is to have some discussion amongst Council and Staff on what the options are, and the opportunities for the buildings for the future phases.

Mr. Sedlacek reviewed some details and status on some of the concerns, and provided a summary of issues raised by Council at their regular November 18, 2008 meeting. Staff met with Paster Enterprises (Howard Paster, Ken Henk, Jack Amdal, Aaron Helmquist) on November 24th and went through some of the issues.

Mr. Sedlacek said Staff has not yet received the Economic and Feasibility report as well as the Market Analysis. The applicant feels that is proprietary information as they are trying to procure tenants for the spaces. Councilmember Duggan said this is required for the PUD as part of the process going forward (Section 12.1.K. of the PUD ordinance). Councilmember Duggan questioned whether the applicant is financially able to move

forward with this in light of the changes in the market. Councilmember Duggan also questioned what will happen if the applicant comes back to the Council stating they can't do the rest of the project.

Mr. Sedlacek said it has been past practices that the feasibility report was mandatory, and it comes down to the question whether Staff and the Council feel that this is a feasible project. The applicant would like to bring forward at the next meeting the planned application and plat which delineates what the lots are going to be and that will define what the uses of those lots and geography, traffic, drainage and other site specific conditions. This will give the Council opportunity to comment further and this will all be part of public record.

Councilmember Vitelli said the Council has to insist that the applicant provide a detail of all the phases and the detail of what exactly is going to be built in each of these phases and what is going to be built on each of the parcels. This needs to be well defined. This would give the Council some teeth in the case that the applicant comes back proposing to put in a retail shop where the housing was to go. It would have to come back before the Council for review. Councilmember Vitelli used the process of the Village as an example, as it was very detailed for the last four or five years. Mayor Huber said there were many times the Council and Staff pulled those plans out over time to have discussions.

Councilmember Vitelli said the viability of the residential is one of his greatest interests. He is willing to allow the applicant to retain some confidentiality on their retail plans in obtaining tenants, but he would also like to see what the study says about residential. Councilmember Krebsbach said she would also like to know what the quality of the residential would be. Councilmember Duggan said he would like to see several options (examples) for residential, not just looking at one as residential will be a key factor in the overall development. Councilmember Duggan feels confident that residential will do well. Councilmember Vitelli said there is a good opportunity for senior housing and

he believes the CDA would confirm that. He would like to see the same detail provided to the city during development of the Village and the feasibility study as it relates to residential.

Councilmember Krebsbach said it was recorded in the past minutes that Mr. Henk said they would comply with the city's ordinances about 24 hour operations. Councilmember Krebsbach said the city does not have any ordinances that refer to 24-hour operations. He did not say the lease agreement will limit the hours of operation of Walgreens. Mr. Sedlacek said the city has put stipulations of this nature in PUD's, and that Mr. Henk may have meant that they will comply with the Development Agreement terms regarding the 24-hours. Councilmember Krebsbach said that Mr. Henk did not say it would be in the Developers Agreement, and that there would be any stipulation in the Developers Agreement regarding hours of operation. Mr. Sedlacek said Mr. Henk agreed to, at the meeting with Staff, that this is a development agreement issue and they have no problems with limiting the hours.

Councilmember Krebsbach said she would like to see written confirmation that Walgreens is agreeable to the limited hours. Mr. Sedlacek said the applicant is having some trouble in getting that. Councilmember Krebsbach said she wants to make sure there is no confusion between the ordinances and the Developers Agreement, and that the applicant adheres properly. Councilmember Vitelli said upon asking Mr. Henk directly if they will ever come back to the city asking for 24-hours, Mr. Henk said they would not.

Councilmember Krebsbach asked if the applicant is still holding to the three pylon signs. Mr. Sedlacek said they are, and will need to come before the Council with a strong argument on why this is necessary. Mayor Huber said there are also concerns about MnDOT's right of way that will need to be addressed. Public Works Director John Mazzitello said he has been working with Engineer

Aaron Hemquist, who will be conferring with MnDOT on that issue.

Councilmember Krebsbach said she has asked for a sketch of the waterway showing what it will look like in five years and in ten years, for the purpose of knowing how it will be maintained and not be cut down to the concrete level.

Councilmember Krebsbach said she has a concern with the long building (retail) off Highway 110 as a lot of the features of the rear of the buildings show being very long along the berms. Mr. Mazzitello said the applicant did not show all the landscaping in the sketches that were provided because they wanted to get a clear perspective of the sight lines across the property without having trees and shrubs blocking views. The applicant has since been asked to provide the full landscaping plan. Mr. Mazzitello said berms are many times used around storm water ponds because of safety concerns and storm water functions (discharges / elevation). Mr. Mazzitello said he will know more on the physical portion of the storm water functions when the applicant provides the engineering details for the hydrology of the site.

Councilmember Duggan said he is concerned about the financing evidence to support the development to completion, and that there is a requirement as outlined in Section 12.1.K.5.b.d that says that the completion is to be five to eight years from the date of approval and he does not believe that the applicant is aware of that.

Councilmember Duggan said there needs to be further attention drawn to the traffic generation numbers as Staff has challenged some of the applicant's numbers. Councilmember Duggan said there needs to be some language in the Developers Agreement that would serve as a fall back plan if there proves to be major traffic jams off Dodd Road.

Councilmember Duggan asked that more clarification on the park dedication procedure be discussed.

Councilmember Duggan said he will have a written summary at the next Council meeting with additional comments on things he does not agree with such as clustering.

Councilmember Krebsbach said she wants to be sure that Mr. Henk is backing up the comments that he said on record. Mr. Sedlacek said some of the concerns that Councilmember Duggan expressed come from the applicant not addressing questions properly.

Mayor Huber said the applicant is also able to view the on-line versions of the City Council meetings to hear these comments.

Councilmember Duggan summarized that the Council has repeatedly requested:

- More clustering
- More green space
- More uniqueness in architectural design
- A “look-see” in housing
- Clear architectural renderings of the original buildings
- Less parking
- Clearer detailing of all the landscaping
- Consideration of the approaches to McDonalds
- More pedestrian friendly – both in the northeast and the southwest sectors
- At least one unique building

ORDER FOR ABATEMENT

Mr. Danielson said Staff has proceeded with the consideration of abatement for the property located at 694 Wentworth Avenue.

The property was recently visited by Mr. Sedlacek, Mr. Mazzitello, Councilmember Schneeman, Paul Berg and Jim Danielson. Notes were taken on all the violations and safety issues that were found. Based on those notes, the City Attorney has drafted an “Order for Abatement” for the Council to review and take action on.

Councilmember Duggan said he recently sent some changes to the original document to Ms. Diehm and there is a revised version in front of the Council at this time.

Councilmember Vitelli moved to approve the issuance of the Letter of Abatement as presented. Councilmember Duggan seconded the motion.

For the sake of the audience, City Attorney Tami Diehm explained the process and steps going forward.

Ayes: 4
Nays: 0

2009 GOALS

The 2009 City Council Goal Setting workshop has been set for Thursday, January 22, 2009, 7:30 a.m. to 10:00 a.m.

COUNCIL COMMENTS

Councilmember Duggan said a collection of Bernie Friel's photography is on display at the Village, and highlighted some of the activities that will be going on this month.

Councilmember Duggan said Tommy Chicago's pizzeria is now offering delivery and Theresa's Restaurant will be hosting some holiday events.

Councilmember Duggan extended his congratulations to Ms. Diehm for being recognized as a 2008 Rising Star, as well as Councilmember Duggan's son, for being one of the up and coming lawyers in 2008.

ADJOURN

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

Councilmember Vitelli seconded the motion.

Ayes: 4
Nays: 0

Time of Adjournment 8:25 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

John J. Huber
Mayor