

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, December 4, 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 8:00 p.m. The following members were present: Councilmembers Duggan, Krebsbach, and Vitelli. Councilmember Schneeman had notified Council that she would be absent.

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: 4

Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved to approve the minutes of the October 16, 2007 City Council Meeting as corrected.

Commissioner Vitelli seconded the motion.

Ayes: 4

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 27, 2007 Planning Commission Meeting.
- b. Acknowledgement of the Building Activity Report for December, 2007.
- c. Acknowledgement of information on the Dakota County Communications Center
- d. Authorization for Bolton and Menk to Complete MSAS Needs Analysis.
- e. Authorization for Access Control Gate for Pilot Knob Site.
- f. Authorization for Temporary Liquor License for St. Peters Church.

- g. Authorization to Replace Furnace at Par 3 Golf Course.
- h. Authorization for Grass Rig Conversion and Sale of 1986 4x4 Pickup.
- i. Approval of Full Time Status for IT Coordinator Position.
- j. Adoption of Resolution No. 07-117: “A RESOLUTION UTILIZING IMAGETREND® FIRE/EMS RECORDS MANAGEMENT SYSTEM.”
- k. Adoption of Resolution No. 07-118: “A RESOLUTION APPROVING THE APPLICATION OF THE CITY OF MENDOTA HEIGHTS FOR FISCAL YEAR 2007 DAKOTA COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING.”
- l. Adoption of Resolution No. 07-119 “A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A JOINT POWERS AGREEMENT WITH DAKOTA COUNTY FOR THE PILOT KNOB PHASE 2 ACQUISITION.”
- m. Adoption of Resolution No. 07-120 “A RESOLUTION CERTIFYING DELINQUENT UTILITY CHARGES TO THE DAKOTA COUNTY AUDITORS FOR COLLECTION WITH REAL ESTATE TAXES”, AND Resolution No. 07-121 “A RESOLUTION CERTIFYING UNPAID WEED CUTTING CHARGES.”
- n. Approval of the List of Contractors dated November 30, 2007.
- o. Approval of the List of Claims dated December 4, 2007 totaling \$138,922.33.
- p. Approval of Sign Permit for 2333 Waters Drive “Derse Company”.
- q. Authorization for Replacement of Furnaces in Three Warming Houses.

Questions regarding the Consent Agenda:

Item d – Councilmember Krebsbach asked for clarification on city staffing. Ms. McDermott said there has been a turn-over in staff members in the past five years. Councilmember Krebsbach asked if there were different skills sets. Ms. McDermott said that was correct, and this is a very complicated recording mechanism and the people who originally input the data are no longer working for the City, so it’s good to review the entire data base periodically. Ms. McDermott said she would feel comfortable having someone

come in to help with this. Councilmember Krebsbach confirmed that there are the same number of staff, but a different skill set, and all are engineers qualified for their level of work.

Councilmember Duggan said the report indicates that in most cases, the fees cities paid Bolton & Menk were less than the resulting apportionment increases, and asked if there are any comparisons in relation to this. Ms. McDermott said she believes that every city listed in the proposal saved the amount of money they paid out and they realized that money back in state aid funds. Ms. McDermott said Fridley actually gained tens of thousands of dollars based on the review of their needs.

Mayor Huber said it's hard to guarantee, but Ms. McDermott seems comfortable that there is a 50-50 chance there will be money that was missed. Ms. McDermott said even if the savings is \$7,000, the City would recoup the fee in two years.

Councilmember Duggan asked when the last time was that this was done. Ms. McDermott said Staff has to update every year, but no one has gone back and looked at every segment of every state aid street to make sure that it's getting all the needs that we can get.

Councilmember Duggan asked if this will be an annual expense. Ms. McDermott said no. This company will train Staff on what to look for on a yearly basis, so Staff will be able to complete this in the future.

Item e – Ms. McDermott said Mr. Kullander has received bids on used concrete barriers, and total cost will be about \$300 to \$500.

Item g – Councilmember Krebsbach asked if Staff is shopping for the furnace along with the ones for the warming houses together to save money. Ms. McDermott said that was correct.

Item i – Councilmember Duggan said he would like to have some training for another person to be used as a backup. City Clerk Kathleen Swanson said that this is a very complex system. Other than Stacy, no one on staff has a network administration background or Microsoft certification, and training would need to be very extensive and would be very

expensive. Ms. Swanson stated that she can respond to general hardware and software problems and LOGIS would be called for any significant network issues when Stacy is not available.

Item j – City Administrator Jim Danielson said this will cost the City, if they decide to participate, \$50 per month.

Item l – Councilmember Duggan asked to have corrections to the language of the resolution. City Attorney Tami Diehm will have these corrections made. Councilmember Duggan said there were a few challenges where they talk about staff recommending that permanent easement not be required and asked if the City has that easement or not. Mr. Danielson said the City does have the easement on the first 8.5 acres.

Item m – Councilmember Duggan said the average of this is \$274.71, with a 7% interest rate adding \$19.50 handling charge. This is almost a \$70 charge that people will see on their property tax bill and noted this will not be a property tax item.

Councilmember Krebsbach seconded the motion.

Ayes: 4
Nays: 0

PUBLIC COMMENTS

Mayor Huber asked Ms. McDermott to update everyone on the plowing procedures. Ms. McDermott will have this information placed on the website.

PRESENTATION

Ms. Jude Rikah presented information regarding the upcoming blood drive at St. Paul's United Methodist Church.

HEARING: TAX LEVY AND BUDGET

Mayor Huber opened the meeting for the purpose of the continuation of the Truth in Taxation hearing conducted last evening.

Finance Director Kristen Schabacker presented the Final 2007 Tax Levy Collectible in 2008 and Proposed Budget.

Ms. Schabacker said the City of Mendota Heights conducted the Truth in Taxation Hearing on Monday, December 3rd. There were no residents in attendance for that meeting.

In November, Dakota County mailed out notices to the residents regarding their proposed county, city, school

district and special tax rates for their home. The Par 3 referendum was included in the city line.

The school district also held a special referendum and Question 1 passed, which will result in an approximate school district tax increase of \$251 on a \$350,000 home.

Ms. Schabacker said she has not received any phone calls from residents regarding their property taxes.

Councilmember Krebsbach asked for clarification on the TIF district. Ms. Schabacker said this district was established in the early '80's and was in the industrial park.

Councilmember Krebsbach said the slide most interesting to the residents is the "General Fund Anticipated Revenue" showing that the City is charging about 10% less for police and fire service to other cities as compared to last year. This slide also shows information on the licenses and permits that people pay for.

Mayor Huber complimented Ms. Schabacker and Staff for their excellent work on the budget.

Councilmember Duggan moved to adopt Resolution No. 07-122: "A RESOLUTION APPROVAL FINAL 2007 TAX LEVY COLLECTIBLE IN 2008 AND ADOPTING PROPOSED BUDGET FOR 2008."

Commissioner Vitelli seconded the motion.

Ayes: 4
Nays: 0

HEARING: PONTIAC PLACE VACATION

Mayor Huber opened the meeting for the purpose of a public hearing on a request from Mr. & Mrs. Clifford Fejfar and Mr. & Mrs. Richard Zaun for the vacation of the portion of the Pontiac Place right-of-way that runs between their properties.

Public Works Director McDermott said Staff received a request for vacating Pontiac Place, which is bounded by 701 and 719 Cheyenne Lane and Friendly Hills Park. Staff recommends vacating this public right of way as it is not used for a roadway or any access, and serves no public purpose.

Ms. McDermott said Staff would like to retain a utility and drainage easement over that right of way. Ms. McDermott said Mayor Huber had asked for a condition IN the resolution that Lots 1, Block 9 and Lot 6, Block 14 of Friendly Hills Addition not be further subdivided with the addition of this property.

Mayor Huber said he doubted these properties would be able to be split anyway, and the frontage would not be big enough.

Councilmember Krebsbach said should a future Council want to vacate the easement, there still could be not a lot split. Ms. McDermott said that was correct.

Councilmember Vitelli asked what the history has been on vacations as he does not see an urgent need here. Councilmember Duggan said one was done by the fire station a few years ago. Mayor Huber said he believes there was one off of Ridge Place as well.

Councilmember Krebsbach asked about access to the park. Ms. McDermott said they have looked at that, and determined there is no good location for a trail or any type of access. Maintenance is another issue with the right of ways. Neighbors like to include them as part of their yard, and the city usually does the maintenance on it.

Councilmember Vitelli said he looked at the Dakota County database for 703 Cheyenne, and it does not indicate that there is any structure on there, and the market value of that lot is \$429,000. Ms. McDermott said that photo taken at the time is old and there is a structure on that property.

Councilmember Krebsbach said she would like to table this.

Councilmember Vitelli said he would like to talk to Staff more about the access to the park.

Ms. McDermott said the Council will have to continue the public hearing to the following meeting.

Councilmember Duggan said he would table this discussion to the next City Council meeting.

Councilmember Duggan asked if the applicant is responsible for the cost of this procedure. Ms. McDermott said that was correct.

Mayor Huber invited the residents of 709 and 719 Cheyenne Place to speak. Sarah and Cliff Fejfar, 709 Cheyenne Place, explained how this vacation would affect their property. Mr. Richard Zaun, 719 Cheyenne Place, was also in attendance to answer questions.

Mr. Fejfar explained how the land was laid out and the stream that runs through this property.

Councilmember Duggan moved to continue the hearing to the next City Council meeting.

Councilmember Vitelli seconded the motion.

Ayes: 4

Nays: 0

CASE NO. 07-04
KOPPI

Mr. Sedlacek reviewed a map showing the location of 975 Delaware Avenue, which is single family home, zoned R-1 and guided for low density residential. This property also has a detached garage. The property owners, Joseph and Charleen Koppi, are seeking a variance that will allow them to expand the existing home to the rear of the property. The existing setback for the building is 5-ft, and the R-1 zoning ordinance requires a 10-ft setback. The applicants are seeking approval to extend the addition along that same 5-ft setback. Mr. Sedlacek explained that this is a very small home and the property is quite small as well, below the standard R-1 zoning requirements. The applicants are seeking to expand the first floor area of the home to allow for a reasonable use of their kitchen space.

The Planning Commission recommends approval of the variance with the hardship being the size of the home and lot, and not being created by the property owner.

Councilmember Vitelli moved adoption of Resolution 07-124, "A RESOLUTION APPROVING A FIVE FOOT VARIANCE TO THE SIDE YARD SETBACK AT 975 DELAWARE AVENUE.

Councilmember Duggan seconded the motion.

Ayes: 4

Nays: 0

CASE NO. 07-44, CRICKET
COMMUNICATIONS

Mr. Sedlacek introduced the application for a conditional use permit to allow for cellular antennae to be attached to the city's water tower, and ground equipment.

Mr. Sedlacek said the city planner feels that Cricket Communications and their proposed antennas on the water tower will fit in with the existing structures on that tower. Mr. Sedlacek reviewed the site plan and showed how the screening will be done.

Mr. Sedlacek said the city planner has recommended the conditional use permit for both the antennae and the equipment structure, and there were no comments at the public hearing.

Councilmember Vitelli said there is no mention of fees. Mr. Sedlacek said under the conditional use permit, there needs to be a lease to access the property.

Mr. Sedlacek said the first action is to approve the conditional use permit, and if that is approved and the lease is not approved, the conditional use permit will not apply as the lease needs to be in place to allow the applicant to enter the property.

Mr. Sedlacek said the agenda item for the lease discussion is further down the agenda.

Councilmember Duggan asked for clarification on the calculations and renewal fees. Mr. Sedlacek said the lease agreement to use the water tower is based on the average of what the current tenants are paying. The City owns the tower and will lease the space to Cricket Communications. The lease will charge the applicant \$660.00 (\$220 a piece for 3) per month, which is an average of what the existing antennas are charged.

Councilmember asked if the water tower is higher, giving better signals, than the current cell towers in the community. Mr. Sedlacek said that was correct.

Councilmember Vitelli moved adoption of Resolution 07-125, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR CELLULAR ANTENNA AND

GROUND EQUIPMENT AT 2431 SOUTH LEXINGTON AVENUE.”

Councilmember Duggan seconded the motion.

Councilmember Krebsbach asked how approving the conditional use permit would affect the lease.

Ms. Diehm said at this point, there is not a lease and any lease would be irrelevant without a conditional use permit. This action will not affect the lease.

Councilmember Duggan asked who will maintain the gravel on the property. Ms. McDermott said the gravel and equipment is on City property, but the applicant needs to maintain the property under the lease agreement.

Councilmember Vitelli asked how long the term of the lease will be.

Ms. Diehm recommended that the Council vote on the motion before discussing the lease, as this will be a separate motion.

Ayes: 4
Nays: 0

WATER TOWER LEASE

Councilmember Vitelli said cell phones are increasing in cost, and asked if the City increases the rent for these antennas. Ms. Diehm said the lease is a five year term and there is an escalator tied to the consumer price index to raise the rent on the antennas. Mr. Sedlacek said the requested lease amount for this project was based on the current rentals that are already on the tower.

Councilmember Duggan suggested continuing with the five year lease and adopting an agreement with the applicant for five years at \$220.00 per antenna with the escalators built into it not to be less than 5% increase. Mayor Huber said 5% or the cost of living, whichever is greater.

Ms. Diehm asked Council to authorize Staff to enter into lease agreement negotiations and bring their findings back to the next Council meeting.

Councilmember Duggan moved to direct Staff to enter into lease agreement negotiations with Cricket Communications, Inc.

Councilmember Vitelli seconded the motion.

Ayes: 4
Nays: 0

CASE 07-45, ROBERTS (TTM) Mr. Sedlacek introduced the application for a conditional use permit to allow for an interconnect antennae and equipment to be co-located on the existing AT&T tower. This tower is located on city property, at 1196 Northland Drive and AT&T has a lease with the City for this tower.

Mr. Sedlacek said this request for the conditional use permit is similar to the one just reviewed in Case No. 07-44, and the city planner has determined that this application meets all the criteria.

The Planning Commission had a concern as to where the ground equipment would be located, and the applicant has provided that information this evening. The Planning Commission also asked about security, as there is no fencing. The applicant has indicated that the equipment is small and there are no security concerns of the applicant.

Councilmember Krebsbach expressed her concerns about the security criteria.

Mr. Dan Paschall, representing TTM, explained how their company provides digital services to cellular companies to improve their communication needs, using fiber optics, by replacing telephone lines with satellite frequencies.

Mr. Paschall presented a small dish antennae that is proposed to be placed on the tower.

Councilmember Krebsbach asked what steps the applicant takes to ensure security for their operation. Mr. Paschall said they put redundancy throughout all their connections and electronics. He further explained that the equipment was very secure and the materials go through very rigorous ballistics testing.

Councilmember Duggan asked about weights on the tower. Mr. Paschall said with all their equipment, they do a structural analysis to make sure the towers are not over capacitated.

Councilmember Vitelli asked who benefits from this service. Mr. Paschall said the public benefits first and foremost, then the carriers as it's providing a more reliable service.

Councilmember Vitelli asked what carriers benefit. Mr. Paschall said by federal mandates, he is not allowed to identify the carriers, but they are working with 4 out of the 5 major carriers. Councilmember Vitelli asked if the carriers are simply those that are on the tower. Mr. Paschall said that was correct, T-Mobile, Cingular, Sprint, Nextel, Alltel, etc., and soon to be Cricket Communications. AT&T benefits as well, as the existing infrastructure is aging and now that the cellular carriers are offering more services, TTM needs to provide more bandwidth.

Councilmember Vitelli said he has no problems with the antennae, but he does with the lease request as AT&T benefits, and they will get \$300 a month from TTM. This request means that the City will have to sacrifice the rule of \$500 a month and allow TMM to place their equipment for \$150. The City does not benefit from this at all.

Councilmember Krebsbach said a lot of time and discussion has been put into this topic over the years, and she believes that the Council needs to take more time to review this and learn more about technology upgrading and what is a reasonable lease.

Councilmember Krebsbach said the consensus seems to be that the conditional use permit is fine, but determine the lease later.

Mayor Huber said that in looking at the conditional use permit, as with any request for a conditional use permit, it must be decided if this is a request that is appropriate within the City's rules. If, in this case, it's decided that this request does not make sense, are there reasons and findings to deny it. Presumably, one of those reasons to deny it would be that the City would not be making enough money. Mayor Huber said this discussion is mostly talking about money at this point, and he believes that it is not in the interest of the City to enter into a lease.

Ms. Diehm said the code outlines specific conditions that must be met in order to grant the conditional use permit. When the conditional use permit is evaluated, the City needs

to look at whether or not those conditions have been met. However, it is difficult to look at them completely independently. One potential solution would be to add a condition, as it's reasonable for the City to have site control, and right now with that lease amendment, the site control is not there. A condition could be added that the City is able to enter into a lease amendment by a certain date. That ties the two together, yet keeps them separate. It may not be appropriate that the City adds a condition to require a certain amount of money, but requiring site control would be appropriate.

Councilmember Vitelli said there is a law in the City that says the tenant may sublet for \$500 a month, and recommends to support the conditional use permit with the condition that this is contingent on the applicant agreeing to the \$500/month lease and if that is not agreed to within 30 or 60 days, the conditional use permit is withdrawn.

Ms. Diehm said this is becoming more confusing because originally, this was characterized as a sub-lease. Ms. Diehm said she and Mr. Sedlacek received information recently that the applicant is characterizing this as an amendment to the City's lease agreement, which would allow them to provide the service. The applicant is no longer asking to consent to a sub-lease, but to amend the existing agreement with AT&T. Ms. Diehm said this needs more staff review and suggested that this case be tabled.

Councilmember Vitelli asked Mr. Paschall if he were willing to pay \$500. Mr. Paschall said he was not willing to. Mr. Paschall said his first answer was that the public benefited from this service but because of the increased reliability with the service, the calls will go through more readily with his network than the telephone lines. Councilmember Vitelli said that is a reason for the supplier to buy the service as it is their duty as a supplier to provide reliable communications. Mr. Paschall said that is what they are trying to do. Councilmember Vitelli said they should also pay a fee for it.

Councilmember Vitelli suggested that Mr. Paschall ask AT&T to eliminate their \$300 charge a month and then TTM can pay the City \$450, and come up with the additional \$50. AT&T is benefiting from this, and Councilmember Vitelli asked why they are not willing to give TTM the \$300. Mr. Paschall said they will not to maintain independence.

Ms. Diehm said Staff can extend the 60-day time frame.

Councilmember Krebsbach said she would like a statement addressing the federal standards and security issues. Mr. Paschall said their practices are all approved by the FCC.

Councilmember Krebsbach moved to table Case No. 07-45 requesting a conditional use permit until the next City Council meeting.
Councilmember Duggan seconded the motion.

Ayes: 4
Nays: 0

Councilmember Krebsbach moved to table the discussion relating to the TTM lease agreement until the next City Council meeting.
Councilmember Vitelli seconded the motion.

Ayes: 4
Nays: 0

Councilmember Vitelli explained to Mr. Paschall why he feels that the \$500 fee is to be paid, just as it is with all the other carriers, and if TTM can't afford it, that is their problem. Councilmember Vitelli said if this service benefited the City's police and fire, he would support it.

Mr. Paschall said they will not do this site at all and will walk away from it.

COUNCIL COMMENTS

Councilmember Krebsbach commended three retiring District 197 School Board members for their leadership: Chair Dr. Lani Bennett, Becky Gonzalez-Campoy, Mary McGrory-Usset, and Kent Mogler.

Councilmember Krebsbach commended Rabbi Morris Allen, of Beth Jacob Synagogue, for being named one of the top 50 Jewish Leaders in the US by the Jewish Daily Forward, a national publication as found in the The StarTribune.

Councilmember Duggan said he would like to have the school superintendent come to the next meeting to give an update on all the physical changes occurring in the district.

Councilmember Vitelli said the Public Works staff are doing an excellent job with the street plowing. They only hit two

mailboxes, but that's pretty good compared to all the mailboxes they go by.

ADJOURN

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

Ayes: 4
Nays: 0

Time of Adjournment 8:50 p.m.

ATTEST:

Rebecca Shaffer
Recording Secretary

John J. Huber
Mayor