

# Adopted Minutes

## Regular Council Meeting

### April 9, 2013

Mayor Slavik called a Regular Meeting of the Plymouth City Council to order at 7:00 p.m. in the Council Chambers of City Hall, 3400 Plymouth Boulevard, on April 9, 2013.

COUNCIL PRESENT: Mayor Slavik, Councilmembers Wosje, Willis, and Johnson.

ABSENT: Councilmembers Black, Bildsoe and Stein.

STAFF PRESENT: City Manager Ahrens, City Attorney Knutson, Park and Recreation Director Evans, Public Works Director Cote, Community Development Director Juetten, Police Chief Goldstein, Fire Chief Kline, Administrative Services Director Callister and Deputy Clerk Baird.

#### Plymouth Forum

None one appeared before the Council.

#### Presentations and Public Information Announcements

##### **(4.01 & 4.02) Announcement of Primavera and Yard and Garden Expo**

Mayor Slavik announced Primavera on April 11-15 and the Yard and Garden Expo on April 12-13 at the Plymouth Creek Center.

#### Approval of Agenda

Mayor Slavik added the Council would be going into a closed session immediately following the regular Council meeting to discuss pending litigation.

Motion was made by Councilmember Willis, and seconded by Councilmember Wosje, to approve the amended agenda. With all members voting in favor the motion carried.

#### Consent Agenda

Motion was made by Councilmember Willis, and seconded by Councilmember Wosje, to adopt the Consent Agenda that included the following items with an amendment to the resolution for

item 6.11 that the City Council does not elect to waive its statutory tort liability limitation. With all members voting in favor, the motion carried.

(6.01) City Council Minutes for Regular Meetings of March 12 and March 19.

(6.02) Resolution Approving Disbursements ending March 30, 2013 (Res2013-091).

(6.03) Resolution Authorizing Acceptance of a Joint Powers Agreement Between the St. Paul Fire Department and the Plymouth Fire Department for the Use of the Fire Training Facility in St. Paul to Provide Live Fire Training to New Recruits (Res2013-092).

(6.04) Resolution Declaring Adequacy of Petition and Ordering Preliminary Engineering Report for the Dunkirk Lane Street and Utility Improvements (13015 – Res2013-093) and a Resolution Receiving Preliminary Engineering Report, Ordering Preparation of Plans and Specifications, and Calling for a Public Hearing for the Dunkirk Lane Street and Utility Improvements (13015 – Res2013-094).

(6.05) Resolution Awarding Bid for 2013 Street Sweeping Services (13013 – Res2013-095).

(6.06) Resolution Approving a Refuse Hauler License for ACE Solid Waste for the period through March 31, 2014 (Res2013-096).

(6.07) Ordinance Amending Chapter 21 of the City Code to amend the HOM Furniture PUD for Property Located at 4150 Berkshire Lane (2013012 – Ord2013-10); and Resolutions Approving a PUD Amendment for CRW Plymouth, LLC for Property Located at 4150 Berkshire Lane (2013012 – Res2013-097) and Approving Findings of Fact for Amending the Zoning Ordinance Text Related to the HOM Furniture PUD, for Property Located at 4150 Berkshire Lane (2013012 – Res2013-098).

(6.08) Resolutions Approving a Final Plat and Development Contract for U.S. Home Corporation for “Kirkwood 2<sup>nd</sup> Addition” for Property located between Dunkirk and Vicksburg Lanes South of 54<sup>th</sup> Avenue (2012054F – Res2013-099) and Adopting Assessments for Trunk Sanitary Sewer and Water Main Kirkwood 2<sup>nd</sup> Addition (2012054 – Res2013-100).

(6.09) Resolution Approving a Temporary Liquor License for Mount Olivet Lutheran Church (Res2013-101).

(6.10) Resolution Approving the Application of Lucky 13’s, 3000 Harbor Lane to extend the Licensed Premises on a Seasonal Basis (Res 2013-102).

(6.11) Resolution Awarding the Contract for the 2013-2014 Property and Casualty Insurance to the League of Minnesota Cities Insurance Trust (Res2013-103).

## **Public Hearings**

**(7.01) On-Sale Liquor and Sunday Intoxicating Liquor License Applications for Sakana Plymouth Inc., d/b/a Sakana Hibachi, Sushi & Asian Bistro, 4345 Nathan Lane North, Suite O**

City Manager Ahrens reported on the applications for on-sale liquor and Sunday intoxicating liquor license applications for Sakana Plymouth Inc., d/b/a Sakana Hibachi, Sushi & Asian Bistro, 4345 Nathan Lane North, Suite O.

Mayor Slavik opened the public hearing.

Mayor Slavik closed the public hearing.

A motion was made by Councilmember Willis, and seconded by Councilmember Wosje, to adopt a Resolution Approving the On-Sale Liquor and Sunday Intoxicating Liquor Licenses for Sakana Plymouth Inc., d/b/a Sakana Hibachi, Sushi & Asian Bistro, 4345 Nathan Lane North, Suite O (Res2013-105). With all members voting in favor, the motion carried.

**(7.02) Denial of Massage Therapist License for Ma'Rion Anderson III**

Deputy Police Chief Plekkenpol gave a report for the findings of fact explaining the administrative denial of a massage therapy license for Mr. Anderson. It was brought to the police department's attention on February 5, 2013 that Mr. Anderson was practicing without a massage therapy license at Massage Retreat & Spa. City staff had previously mailed renewal information prior to the expiration of his 2012 license. Notifications were also sent to the employer that Mr. Anderson had not renewed his license on January 10, 2013, and February 7, 2013.

Mr. Anderson applied for his renewal on March 8, 2013, which brought forth other allegations under investigation, which have since been dropped. A citation was written for practicing without a license and mailed to Mr. Anderson which came back to the City as undeliverable. Hennepin County also mailed a letter to Mr. Anderson informing him of his court date on March 21, 2013 at 9:30 a.m. for the citation, which was sent to the correct address. The court representative stated that Mr. Anderson did not appear in court and a warrant was issued for his arrest. Deputy Police Chief Plekkenpol informed Mr. Anderson during a phone call of this fact and advised him to tend to the county issue prior to appearing before the Council. As of this morning this warrant had not been cleared up.

It is recommended that his massage license renewal be denied on the basis of practicing without a license.

Mayor Slavik opened the public hearing.

Ma'Rion Guy Anderson, currently homeless, living with a family member at the residence of 7611 36<sup>th</sup> Avenue North #119, appeared before the council. He moved here from Arizona where he originally obtained his schooling for massage therapy in September of 2012, and received his

massage license from the City at that time. It was not his intention to practice without a license. According to his understanding he thought he could apply for the license and pay a penalty at a later date than by January 1, 2013. He was confused as to why there was a warrant issued and why he had not been contacted by the City.

Mr. Anderson stated he is very passionate about his profession and takes it very seriously. He stated he would not have spent thousands of dollars to receive his degree if he didn't take it seriously. He is disappointed that there was a mix up with his employer and of the allegations that were made. Mr. Anderson agrees that he made some bad choices and if he could rewind the calendar he would have contacted staff at an earlier time to renew his license. Circumstances have now happened that have caused him to be homeless, because of fines he has had to pay out of pocket, and he has been on suspension from his employer without pay, until their own investigation were complete.

There was some confusion about what Mr. Anderson's current address was. Mr. Anderson stated that it was 7611 36<sup>th</sup> Avenue #203, New Hope. The Hennepin County letter that was received was sent to 5209 84<sup>th</sup> Court North, Brooklyn Park.

Mr. Anderson pleaded with the Council to reconsider his denial.

Councilmember Johnson asked how long he has been licensed. Mr. Anderson replied since September 2012.

Councilmember Johnson asked if during his training, was he ever made aware that he needed to renew the license. He replied yes and provided a copy of the renewal application that got sent to his home before December. However he was unclear that he had to renew it by January 1, 2013.

Councilmember Johnson asked even though he knew this, he decided to continue to perform without a license after December 31, 2012. Mr. Anderson stated that he was aware that even if he didn't renew by December 31, there would be penalties. However it doesn't state on the application that you can't practice massage therapy without renewal.

Councilmember Johnson then explained to Mr. Anderson that under state law, once a license expires it is no longer valid.

Mayor Slavik closed the hearing.

Councilmember Willis asked Mr. Anderson what his currently employment status is with Massage Retreat & Spa. Mr. Anderson replied he is inactive.

Councilmember Willis asked if the allegations initially brought forward were dropped. Chief Goldstein replied yes. There are no criminal charges.

Councilmember Willis stated that the denial of this application and his career is pretty harsh, allowing him no ability to continue in his chosen field, or any way to make a living. The Council

should provide him an opportunity to apply for his license without penalty and he should demonstrate his professional training and occupation and understand the absolute necessity to maintain licensure to practice.

Councilmember Johnson suggested this item be tabled so a full Council is present.

Councilmember Wosje agrees with Councilmember Willis. He has empathy for Mr. Anderson as well as not understanding why he didn't maintain his license. He would like to hear from other Councilmembers who aren't in attendance tonight.

Councilmember Johnson reiterated that the licensing process is serious and there are requirements. Licensing protects the public.

Mayor Slavik stated the Council has been consistent with supporting the denials from staff. She agrees that there was confusion with the address on where the notice may have been sent to. She supports the suggestion to table this item. Since staff from the Police Department won't be available for the April 23 meeting, she recommended this item be tabled to May 14.

Councilmember Wosje asked if there would be enough time to take care of the warrant by May 14. Deputy Police Chief Plekkenpol replied yes. Mayor Slavik asked if a copy of the notification for renewal could be a part of the staff report.

A motion was made by Councilmember Johnson, seconded by Mayor Slavik, to direct the City Attorney to bring back findings of fact for denial for the May 14 meeting. With Johnson, Wosje, and Slavik voting yes, and Willis voting no, the motion carried.

## **General Business**

### **(8.01) Site Plan, Conditional Use Permit and Variances for a Truck and Trailer Rental Operation Accessory to a Self-Storage Facility for Amerco Real Estate Co. at 1225 Highway 169**

Community Development Director Juetten gave a report on the revised application for a conditional use permit for Amerco Real Estate Company to operate a U-Haul facility at 1225 State Highway 169. The original application was withdrawn over a month ago.

The revised plan requires a variance for the drive aisle to be 19.5 feet between the front and back of the property, and allows 10 vehicles to park overnight in the front lot. The Planning Commission is recommending approval.

David Pollock, applicant, stated they re-evaluated their original plan after the January 8 Council meeting and took the recommendations from Council into consideration. They are now requesting parking spaces for only 10 vehicles in the front lot and not thirty or more.

A motion was made by Councilmember Johnson, and seconded by Councilmember Willis, to adopt a Resolution Approving a Conditional Use Permit, Screening and Drive-Aisle Variances and a Site Plan Amendment to Allow a Truck and Trailer Rental Operation Accessory to a Self-Storage Facility at 1225 State Highway 169 (2013010 Res2013-106). With all members voting in favor, the motion carried.

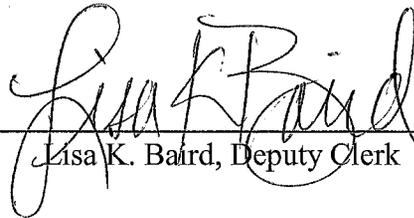
## **Reports and Staff Recommendations**

### **(9.01) Legislative Update**

Administrative Services Director Callister provided a legislative update to the Council.

## **Adjournment**

Mayor Slavik adjourned the regular meeting at 8:10 p.m. The Council then went into closed session to discuss pending litigation. This meeting was held in the Medicine Lake Room with Mayor Slavik, Councilmembers Wosje, Willis, Johnson, City Manager Ahrens, and Administrative Director Callister in attendance. This meeting was adjourned at 9:00 p.m.



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Lisa K. Baird, Deputy Clerk