

Adopted Minutes Regular Council Meeting July 12, 2011

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 July 12, 2011.

COUNCIL PRESENT: Mayor Slavik, Councilmembers Bildsoe, Murdock, Black, Willis, Johnson, and Stein.

ABSENT: None.

STAFF PRESENT: City Manager Ahrens, City Attorney Knutson, Park Director Evans, Public Works Director Cote, Community Development Director Juetten, Administrative Services Director Portner, Fire Chief Kline, Planning Manager Thomson, Police Captain Swiatkiewicz, and City Clerk Engdahl.

Plymouth Forum

There was no one present to address the Council.

Presentations and Public Information Announcements

(4.01) Fire Department Extrication Team

The Council recognized the Fire Department's Extrication Team for placing second in the 16th Annual Midwest Regional Auto Extrication Competition and Learning Symposium held in May.

(4.02) Introduction of Diane Evans

City Manager Ahrens introduced Diane Evans, who is the City's new Park Director.

Approval of Agenda

The Council tabled item No. 6.15 under the Consent Agenda to July 26. Also, item No. 6.06 was removed from the agenda.

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

Consent Agenda

Item No. 6.07 was removed from the Consent Agenda and placed under General Business as item No. 8.03.

Motion was made by Councilmember Stein, and seconded by Councilmember Bildsoe, to adopt the amended Consent Agenda that included the following items:

- (6.01) Special and Regular Meeting minutes of June 14 and June 28.
- (6.02) Resolution Approving Disbursements ending July 1, 2011 (Res2011-213).
- (6.03) Resolution Approving Bids for the Council Chambers Renovation Project (Res2011-214).
- (6.04) Resolution Identifying the Need for Livable Communities Demonstration Account Funding and Authorizing an Application for Grant Funds (Res2011-215).
- (6.05) Resolution Approving a Grant Application with the Minnesota Department of Public Safety for the Project 2011 Safe and Sober Communities and Operation Night CAP (Res2011-216).
- (6.06) (This item was removed from the agenda).
- (6.07) (This item was moved to item No. 8.03 under General Business).
- (6.08) Resolution Approving Change Order No. 1 for 2011 Mill and Overlay Project (11007 – Res2011-217).
- (6.09) Resolution Awarding a Contract to First Transit, Inc. for the Operation and Maintenance of Plymouth Metrolink Public Transit Services (Res2011-218).
- (6.10) Resolution Approving the Joint Powers Agreement between the City and the City of Medicine Lake (Res2011-219).
- (6.11) Resolution Approving Encroachment Agreement for a Wood Deck within a Drainage and Utility Easement in Lot 2, Block 1, Quail Ridge of Plymouth 3rd Addition at 4345 Polaris Lane (Res2011-220).
- (6.12) Resolution Approving Encroachment Agreement for a Retaining Wall within a Drainage and Utility Easement in Lot 5, Block 2, Willow Meadows 2nd Addition at 16005 41st Avenue North (Res2011-221).

(6.13) Resolution Approving Encroachment Agreement for a Boulder Retaining Wall within a Drainage and Utility Easement in Lot 3, Block 1, Isaiah Addition, at 17300 32nd Avenue (Res2011-222).

(6.14) Resolution Approving a Revised Final Plat for "Hampton Hills 3rd Addition" for Property located at 5313, 5323, and 5455 Juneau Lane (2011002-F – Res2011-223).

(6.15) (This item was tabled to July 26).

(6.16) Ordinance Amending Chapter 21 of the City Code to Classify Certain Land located at 2800 Fernbrook Lane (2011033 – Ord2011-20), Resolution Approving Findings of Fact for Rezoning (Res2011-224), and a Resolution Approving a PUD General Plan for Omara Architects for Summit Dance Shoppe located (Res2011-225).

(6.17) Resolution Approving a Site Plan Amendment for the City of Plymouth for Parking Lot Improvements at the Plymouth Dog Park located at 17500 County Road 47 (2011040 – Res2011-226).

With all members voting in favor, the motion carried.

Public Hearings

(7.01) Assessment Hearing for County Road 101 Reconstruction Project, 13th Avenue to 30th Avenue (5102)

Public Works Director Cote reported on the proposed assessments for the County Road 101 project from 13th Avenue to 30th Avenue. The proposed assessments were determined using the Public Improvement Special Assessment Policy.

Mayor Slavik opened the public hearing.

Jan Allen, 2045 Merrimac Lane, owner of the Northwest Animal Hospital, stated they object to the assessment. The project has materially harmed their property and hasn't benefitted them. Currently, they are in a condemnation process with the County. She noted that the County and the City Assessor have agreed that the damage to their property is substantial, and the valuation of their property has been reduced due to the damage from this road project.

Kyle Hegna, representing Dave and Kathy Johnson who own Oakwood Square, stated his clients had all the improvements/services that were constructed with this project prior to the project. They have lost some property and landscaping. They oppose the assessment.

Rolly Heitkamp, 2166 Merrimac Lane North, stated they are on a private road and live on Kratz Lake. Prior to the project, their view was trees and wildlife, now it's a wall. She stated the lake used to be clear, but now it's muddy and the water level has decreased. She stated assessing

them for this project doesn't make sense as they previously paid for four lanes for County Road 101, and now they are paying for the wall. Therefore, they are opposed to the assessment.

Al Heitkamp, 2166 Merrimac Lane North, stated their assessment is 195% more than their 10 neighbors who reside in townhomes. Those neighbors are paying 34% of the assessment on average from what they are. He stated since they have the same access to County Road 101 as they do, he requested his assessment be similar to theirs.

Becky Gutlovics, 2625 County Road 101, stated the purpose of this project was to improve safety, roadway conditions, and vehicular capacity, and none of these things benefit her. She stated only 30 properties were assessed for a \$19 million project. Therefore, she objects to the method of assessing, and the assessments should be evaluated.

Joshua Holwell, 1310 County Road 101 North, stated he already paid for the 13th Avenue improvement which he doesn't have access to. He only has a right turn access. The property taken from him for this project was taken off the tax assessment.

Josette Repke, 17730 26th Avenue North, stated she asked the contractor how much it would cost to do some improvements for her, and it would be half of her assessment. She doesn't believe her neighbor was assessed, and they had curb and gutter added. The County took part of her property and made a disability wheelchair access on Queensland Lane. She noted a new lamp post was put in the cul-de-sac, and that light glares in front of her window.

Mayor Slavik declared the public hearing closed.

By request of Mayor Slavik, Public Works Director Cote provided answers to the questions raised by residents:

1. Staff used the Public Improvement Assessment Policy in assessing properties that abut or have reasonable access to the improvement. There were also properties that abut the improvements through the cul-de-sac. Single-family properties were treated equally, and townhome properties were assessed \$19,000—not a per unit basis. The total amount being assessed for this project is \$434,386.06 with the remainder of the costs being picked up by the City as whole.
2. The lake level of Kratz Lake went down significantly during the construction of the wall. However, this spring was normal for the lake. There have been water quality improvements that have recently been made upstream. Regarding the quality, he doesn't have any data that indicates the lake was better or worse after the project.
3. Staff will contact Mr. Holwell regarding the taking of his property and whether he paid any assessment for the reconstruction of 13th Avenue.
4. Regarding the decorative lamp post on the cul-de-sac, this is a new light that replaced the previous street light. These decorative lights were put in a number of locations.
5. The contractor indicating that some improvements would be half of a one person's assessment isn't a factual statement as it's not based on the scope of the project.

Public Works Director Cote also noted the following written objections to the assessments were received:

1. 2625 County Road 101
2. 17730 26th Avenue North
3. 2500 Queensland Lane North
4. 2116 Merrimac Lane North
5. 18310 26th Avenue North
6. 2050 Merrimac Lane North

Mr. Heitkamp stated the water quality on Kratz Lake consists of green scum that was never there before.

Mayor Slavik stated the City did do water quality improvements to the lake, but some of that scum is caused from phosphorous and runoff into the lake.

Motion was made by Councilmember Black, and seconded by Councilmember Bildsoe, to adopt a Resolution Adopting Assessments for County Road 101 from 13th Avenue to 30th Avenue (5102 – Res2011-227). With all members voting in favor, the motion carried.

(7.02) Vacation of Drainage and Utility Easements within Lot 17, Block 2, Spring Meadows Addition

Public Works Director Cote reported on the proposed vacation request.

Mayor Slavik opened the public hearing.

Mayor Slavik declared the public hearing closed.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Johnson, to adopt a Resolution Authorizing the Vacation of all Platted Drainage and Utility Easements within Lot 17, Block 2, Spring Meadows (Res2011-228). With all members voting in favor, the motion carried.

General Business

(8.01) Appeal of Denial for a Second Driveway Access at 2405 Kirkwood Lane

Planning Manager Thomson reported on the request of Lawrence Marofsky on behalf of Steve and Sharon Roe for a second driveway access. She stated the Roes have one driveway off 24th Avenue that leads to a detached garage, and they have made the request for a second driveway access in order to re-establish the driveway that led to their tuck-under garage prior to the garage and basement areas being remodeled to accommodate their son's family. When they converted that space, they were advised they had to remove the driveway on Kirkwood Lane, based on a

requirement of the Zoning Ordinance, which permits only one driveway per lot. Subsequently, the Roes removed a segment of driveway abutting the street, retaining the remainder of the driveway.

She stated in reviewing the request for the second driveway, staff considers the applicable requirements for a driveway in the location requested. Per section 21135.07, Subd. 5(n) of the Zoning Ordinance, regarding driveway access, the Roe's street frontage exceeds the minimum 65 feet established in the RSF-3 Zoning District. The ordinance states that "a second driveway access may be allowed by the Zoning Administrator." The second provision of the Zoning Ordinance, regarding location, Section 21135.08, Subd. 5, states that in the case of single-family homes, parking shall be prohibited:

1. Within three feet of any side or rear lot line.
2. Within any established drainage or utility easement, unless approved by the City Engineer.
3. In any portion of a front yard except designated driveways leading directly into a garage or one parking space located on the side of a driveway or attached garage, away from the principle use.

The first two criteria would not apply in this particular case; the third criteria would apply. The driveway in question at one time lead directly into a garage, but currently it leads directly to a downstairs living portion of the home.

She stated its staff's interpretation that the request for the second driveway access should be denied. She noted that two resolutions are in the packet materials. One resolution affirming staff's interpretation of the Zoning Ordinance and denying the second driveway access, and the second resolution allowing the second driveway access.

Councilmember Stein asked if the second driveway would be allowed if there was a garage there. Planning Manager Thomson replied yes. It could be a detached garage with a driveway leading to it.

Councilmember Stein asked what the need is for the second driveway. Planning Manager Thomson replied it's so the son and his family wouldn't have to walk through the home to the living space and could just walk in through the front of the home.

Councilmember Black asked if this would essentially make it a duplex. Planning Manager Thomson replied there could potentially be a rental situation in the future.

Mayor Slavik asked if this would have the appearance of vehicles parked in the front yard. Planning Manager Thomson replied currently there is pavement there as they didn't remove the remainder of the driveway when they remodeled their home.

Councilmember Johnson asked if there are issues for handicap access to that level. Planning Manager Thomson replied no.

Councilmember Black stated staff interpreted the Zoning Ordinance correctly, and she noted there are visibility issues in backing out of this driveway. She asked if they could request a variance. Planning Manager Thomson replied yes.

Councilmember Stein asked if there was a carport at this location, would that constitute the same as a garage. Planning Manager Thomson replied the ordinance states the driveway must lead directly into a garage, so a carport wouldn't meet that definition.

Lawrence Marofsky, representing the Roes, stated they converted the downstairs as an area for their son, daughter in law, and grandson to live. When they remodeled the lower level of the home, the contractor secured the building permit but didn't inform the Roes that there couldn't be a driveway there. That driveway is what they used even though there could be visibility issues prior to the remodel. The current problem is that their son and his family have to go through the house to exit the home and walk to the detached garage or walk around the house in the winter. He stated the Zoning Administrator can waive the requirement for two driveways, and if there's another provision in the ordinance that says you can't have a second driveway, what ordinance do you enforce? He doesn't feel there is a hardship in the neighborhood. He stated it's quite typical for vehicles to be parked on driveways as you can't park on the streets. He requested the Council to allow the second driveway even if it doesn't lead to a garage.

Councilmember Willis stated his concern is about using the former driveway as a parking lot. This could encourage residents to park all types of vehicles on their properties that don't lead to a garage.

Councilmember Johnson asked if there's the potential of setting a precedent in allowing this second driveway and secondly, does the Council have the authority to review these requests on a case-by-case basis. City Attorney Knutson replied no legal precedent would be set, but there could be a concern from a policy precedent.

Councilmember Bildsoe asked if it's allowed to have a circle driveway type access to a residence where that access doesn't lead to a garage as there are a few of those situations in the community. Planning Manager Thomson replied that isn't allowed under the provisions of the Zoning Ordinance. However, a person doesn't need a permit to construct a driveway.

Councilmember Stein stated in his area of the city, there are a number of homes that have two driveways. Therefore, very few precedents would be set.

Motion was made by Councilmember Stein, and seconded by Councilmember Bildsoe, to adopt a Resolution Allowing a Second Driveway Access for Lawrence Marofsky on behalf of Steve and Sharon Roe (Res2011-229).

Councilmember Johnson stated she prefers to review these requests on a case-by-case basis.

Councilmember Black asked which provision in the Zoning ordinance takes precedence. City Attorney Knutson replied the Council has the authority to change the Zoning Ordinance if they are uncomfortable with the provisions. It's the Council's discretion as to what the provisions mean.

Cathy Naborowski, 2335 Kirkwood Lane North, stated the Roes have used this driveway since they built their home in 1983. She stated the front door really isn't the front door of the house. Without having the driveway there, it makes it hard for delivery vehicles. She stated she has a driveway but it doesn't lead to a garage. She noted that there are two other homes in their neighborhood that have similar accesses as the Roes. She requested the Council's support of a second driveway.

Anne Pierce, 12135 24th Avenue North, stated they live across from the Roes. She stated their neighborhood is unique as it's older and there properties with two driveways.

Gerald Kegler, 12135 24th Avenue North, stated the second driveway would improve the current situation for the Roes. He considers this to be a waiver, not a precedent.

Mayor Slavik stated she recognizes the uniqueness of this neighborhood, but she has a concern in establishing a precedent. She would be more comfortable if the Roes applied for a variance. She stated if this request is approved, the Council will need to be consistent with future requests.

There being no further discussion on the motion and with Stein, Black, Bildsoe, and Johnson voting yes, and Willis, Murdock, and Slavik voting no, the motion carried.

(8.02) Revising and Replacing Resolution 2006-186 for Rockridge Center, 4445 Nathan Lane (Hempel Properties LLC - 2005148)

Community Development Director Juetten reported on the request of Hempel Properties LLC to remove a requirement to construct sidewalk connections from the Rockridge Shopping Center parking lot to the east and west property lines. The applicant indicated that the sidewalk connections would be a safety risk and a liability. A sidewalk constructed to the west property line would terminate in a wooded area on a slope and would not connect to Revere Lane without participation from the property owner to the west. The east sidewalk connection has an existing tiered retaining wall and would require steps with a rise of seven feet. Adding these stairs would create a significant liability due to the close proximity of Revere Lane.

Motion was made by Councilmember Black, and seconded by Councilmember Willis, to adopt a Resolution Revising and Replacing Resolution No. 2006-186 adopted on May 9, 2006, Approving a Site Plan Amendment and Conditional Use Permits for Hempel Properties LLC to allow a New Retail Building with a Coffee Drive-Thru and Modifications to the Existing Cub Foods Building for Property located at 4445 Nathan Lane (2005148 – Res2011-230).

Brian Jenson, representing Hempel Properties, requested the Council's support to adopt the revised resolution.

With all members voting in favor, the motion carried.

(8.03) Resolution Approving Special Assessment Agreement for 2333 Niagara Lane for 2010 Street Reconstruction Project (10001)

Councilmember Stein stated regarding the terms of this agreement with Daily Printing, he doesn't support that the assessment is waived if it's not paid. He asked if the property is for sale. Public Works Director Cote replied the property isn't for sale. The agreement before the Council is the same as the City has negotiated in other cases.

Motion was made by Councilmember Johnson, and seconded by Councilmember Willis, to adopt a Resolution Approving Special Assessment Agreement for 2333 Niagara Lane (10001 – Res2011-231). With all members voting in favor but Stein, the motion carried.

Reports and Staff Recommendations

(9.01) Administrative Service Department's 2010 Annual Report

Administrative Services Director Portner provided the Administrative Service Department's 2010 annual report.

Adjournment

Mayor Slavik adjourned the meeting at 9:00 p.m.



Sandra R. Engdahl, City Clerk