

**Adopted Minutes
Regular Council Meeting
March 14, 2006**

Mayor Johnson 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 March 14, 2006. Greenwood Elementary School's Cub Scout Pack 538, Den 2, led the Council in the Pledge of Allegiance.

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

ABSENT: None.

STAFF PRESENT: City Manager Ahrens, Fire Chief Kline, Police Chief Goldstein, City Attorney Knutson, Administrative Services Director Hahn, Lieutenant Webb, Assistant City Engineer Beckwith, Civil Engineer Rennenberg, Park and Recreation Director Blank, Public Works Director Cote, and Office Support Representative Tiegs.

Presentations and Public Information Announcements

Mayor Johnson presented Administrative Services Director Hahn a proclamation declaring March 23, 2006 as "Dale Hahn Day" in recognition of his 25 years of service to the City.

Plymouth Forum

Jim Davis, 18015 48th Court North, stated he has noticed new surveillance cameras located at Dunkirk, Rockford Road, and Old Rockford Road, and he asked what the purpose is of those cameras. Public Works Director Cote replied they are serving as detectors for traffic control, which actually automates the signals. The County is currently installing these cameras on County roads.

Approval of Agenda

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

Consent Agenda

Mayor Johnson removed item No. 6.20.2 and stated this would be postponed to a future meeting.

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

(6.01) Minutes of the Special and Regular Meetings of February 28.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 2 of 9

(6.02) Resolution Approving Disbursements for the Period Ending March 3, 2006 (Res2006-109).

(6.03) Resolution Approving the Labor Agreement between the City of Plymouth and Plymouth Sergeants Represented by Law Enforcement Labor Services for Calendar Years 2006-2007 (Res2006-110).

(6.04) Acceptance of the unaudited financial statements for the year ended December 31, 005 and Resolution Approving Transfer of Funds from General Fund to Street Reconstruction Fund (Res2006-111).

(6.05) Resolution Revising and Replacing Resolution 2006-005 which approved a Final Plat and Development Contract for Charles Cudd Company for "Bassett Creek Crossing," a Subdivision for 28 Multiple Family Dwellings and One Single Family Dwelling located at 10 Zachary Lane (2005093F – Res2006-112).

(6.06) Resolution Approving a Variance for Markus and Sabina Gapany for Impervious Surface Coverage for Property located at 1441 West Medicine Lake Drive (2006001 – Res2006-113).

(6.07) Resolution Approving a Site Plan Amendment and Variance to allow Modifications and Additions to Plymouth Middle School at 10011 36th Avenue North (2006003 – Res2006-114).

(6.08) Resolution Approving a Site Plan Amendment and Variances for WCL Architects for the Amerilab Technologies Property located at 2765 Niagara Lane North (2006004 – Res2006-115).

(6.09) Resolution Approving a Site Plan Amendment and Conditional Use Permits for Hempel Properties LLC to allow a New Retail Building with a Coffee Drive-Through and Modifications to the Existing Cub Foods Building for Property located at 4445 Nathan Lane (2005148 – Res2006-116).

(6.10) Resolution Approving Metropolitan Council Grant Agreement No. SG-04-106 for Regional Funding to Purchase Automatic Vehicle Locator/Global Positioning System Equipment for the Plymouth Metrolink Fleet (Res2006-117).

(6.11) Resolution Approving the Supplemental Agreement for Professional Engineering Services between City of Plymouth and SRF Consulting Group, Inc. for Fernbrook Lane/Highway 55, 27th Avenue to 34th Avenue Project (1013 – Res2006-118).

(6.12) Resolution Approving Change Order No. 7 for Central and Zachary Water Treatment Plants Expansion and Upgrade (2032 – Res2006-119).

(6.13) Resolution Requesting Payment No. 3 and Final Procurement of Greens and Filter Media (2032 – Res2006-120).

(6.14) Resolution Accepting Donation of Money from the Plymouth Crime and Fire Prevention

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 3 of 9

Fund to enable the Plymouth Police Explorers to attend the 2006 National Law Enforcement Explorer Conference (Res2006-121).

(6.15) Resolution Approving Plans and Specifications and Ordering Advertisement for Bids for 2006 Sanitary Sewer Lining Project (6121 – Res2006-122).

(6.16) Resolution Awarding Bid for 2006-2007 Street Sweeping Program (6124E – Res2006-123).

(6.17) Resolution Approving Request for Payment No. 2 and Final for 2005 Seal Coat Program (Res2006-124).

(6.18) Resolution Rescinding Resolution No. 2000-499 and Authorizing “No Parking” on the North Side of 34th Avenue Adjacent to Plymouth City Center (Res2006-125).

(6.19) Resolution Accepting Utilities for Continual Maintenance for Glacier Vista (2001026 – Res2006-126).

(6.20.1) Resolution Terminating Water Quality Pond Maintenance Agreement for Circle Star Business Center First Addition (92092 – Res2006-127).

(6.20.2) (This item was removed from the agenda).

(6.20.3) Resolution Terminating Water Quality Pond Maintenance Agreement for Rockford Glen (94155 – Res2006-129).

(6.20.4) Resolution Terminating Water Quality Pond Maintenance Agreement for Sandpiper Ponds (97089 – Res2006-130).

(6.20.5) Resolution Terminating Water Quality Pond Maintenance Agreement for the Village at Bassett Creek (97080 – Res2006-131).

(6.21) Resolution Accepting Donation of Money from the Plymouth Crime and Fire Prevention Fund for the Purchase of a Canine Ballistic Vest (Res2006-132).

With all members voting in favor, the motion carried.

Public Hearings

(7.1) 2006 Street Reconstruction Project, Hemlock Lane, South Bass Lake, and Lost Lake (6101)

Civil Engineer Renneberg presented the proposed street reconstruction project which includes three areas. The first area is Hemlock Lane from Red Fox Drive in Maple Grove to the recently constructed cul-de-sac. The second area is the South Bass Lake area located from Zachary Lane

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 4 of 9

to, and including, Larch Lane and 53rd Avenue to 54th Avenue, including the adjacent cul-de-sacs. The final area is the Lost Lake area and includes the area south of Old Rockford Road to 40th Avenue and from Revere Lane to Ximines Lane. He stated public information meetings were held with the affected the property owners on January 9 and January 11 to explain the project and to receive their input on the proposed improvements. He noted two concerns that have been raised by residents are backyard drainage issues and the need for a sanitary sewer overflow pipe on 41st Avenue, west of Ximines Lane, due to flooding resulting from the upgrade to the Zachary water treatment plant. Staff has met with some property owners to assist them with their backyard drainage problems. In many cases, a yard drain box would be installed on the property line and the home owner could install drain tile from their low spot in their backyard to this yard drain box.

He noted that an overflow pipe for the sanitary sewer on 41st Avenue would be installed as a precautionary measure. When the Zachary water treatment plant backwashes, the discharge water currently flows through the sanitary sewer system on Ximines Lane. In the past, there have been a few instances where this pipe has backed up into some homes, and the installation of an overflow pipe would reduce this threat significantly. He stated a weir manhole would be installed at the intersection of 41st Avenue and Ximines Lane at an approximate height so once the flow in this manhole reaches a determined elevation, the sewage would run over the weir and would flow through the overflow pipe. Staff has conducted tests to ensure the sanitary system on 41st Avenue, as well as downstream, could handle the increased flow and would not back up into homes.

Mayor Johnson opened the hearing for testimony.

Val Northway, 11605 53rd Avenue North, stated she has already paid for her road once even though she isn't happy about the road condition. She stated there have always been drainage issues in this area. She stated she is also concerned on the percentage of the project costs that are being assessed to residents.

Craig McWilliams, 12100 54th Avenue North, stated the Bass Lake lift station should share more of the cost than \$16,000.

Wendy Hayes, 11535 54th Ave North, stated she supports the project, but she stated it would've been nice if the residents could've received more of an advanced notice from the City on the informational meetings with the neighbors. She requested further information from staff regarding the drainage issues of the project as well as minutes from the informational meetings that were held.

Dick Ledin, 4155 Revere Lane, stated he is one of the owners who requested an easement, but it hasn't been granted. He stated that half of the pond has been dredged which solved most of the run-off problem. He noted that regarding the street, with the recent detour there was an increased amount of traffic and speed, and now that the detour has been removed, those issues are still a problem. He stated that the Revere Lane traffic speeds are a problem, so he requested there be speed bumps.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 5 of 9

Michael Alecante, 60220 Hemlock Lane North, opposed his assessment of \$7,000. He stated they are planning a remodeling project to their home which would require heavy equipment, and he questioned if this would pose a problem. He asked why the County isn't assisting with the Hemlock Lane portion of the project.

Len Hones, 10700 40th Avenue North, stated he would like to better understand the City's bid review process. He stated regarding the speed issue, a road improvement would definitely increase the speed of traffic. Therefore, he asked what the options are for speed control as well as the petition process for that.

Brad Gilbert, 4215 Revere Lane North, stated he has requested storm sewers, but he doesn't have a drainage easement which he desperately needs. He offered pictures of the neighborhood that indicates there are drainage/water problems.

Scott Nelson, 10626 40th Avenue North, stated he resides on the south side of Lost Lake, and he reiterated that there needs to be some type of speed control as 40th Avenue is used as a shortcut for many motorists.

David Jensen, 4020 Saratoga Circle, stated the hearing process for the project was too general, and he would like to know what this project would affect. He asked what the guarantees are for driveway damage and replacement.

Nils Borgas, 4010 Trenton Lane, stated the three-way stop sign is an issue as well as the speed of traffic. Motorists aren't obeying the traffic signs and are traveling through the intersection. He stated he is concerned about the safety for pedestrians and children in the area.

Mr. McWilliams stated they are opposed to the project. The project is basically a drainage project, and heavy construction vehicles have caused the majority of the road damage.

Public Works Director Cote answered questions from the residents regarding how the assessments are calculated as well as the notification to residents on the neighborhood meetings and this evening's process. He stressed that this isn't the last opportunity for residents to comment on the project.

Mayor Johnson requested staff to be proactive in communicating information to the residents, whether it includes a combination of mailed notices, the phone hot line, and the City's website.

Regarding the traffic and speed concerns, Public Works Director Cote explained the City has a neighborhood traffic calming program. Traffic studies are undertaken to determine who is speeding to determine a satisfactory way to solve the problem. Usually, the majority of motorists who are using the roads are neighborhood residents. Speed bumps haven't proven to be successful in the past; therefore, street reconstruction improvements aren't incorporating speed bumps.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 6 of 9

Civil Engineer Rennenberg stated regarding Mr. Alecante's remodeling project, staff would contact him to determine a schedule for his contractor as it relates to his project and the street project.

Public Works Director Cote discussed the question whether the County could assist with the cost of this project. He stated this was formerly a County road and given back to the City, and the County provided reimbursement for an overlay but it was allocated to the County Road 61 project. Therefore, there would be minimal assistance from the County.

Mr. Gilbert stressed that the drainage needs to be improved.

Councilmember Black noted that Paul Anderson had a concern that the drainage problem isn't being addressed to his satisfaction. Civil Engineer Rennenberg stated he would contact Mr. Anderson.

There being no one else wishing to appear before the Council to give testimony, Mayor Johnson declared the public hearing closed.

Motion was made by Councilmember Hewitt, and seconded by Councilmember Black, to adopt a Resolution Ordering Improvement and Preparing Plans and Specifications for 2006 Street Reconstruction Project (6101 – Res2006-133). With all members voting in favor, the motion carried.

(7.2) 2006 Mill and Overlay Project, Pineview Lane/Schmidt Lake Road (6106)

Assistant City Engineer Beckwith illustrated the proposed mill and overlay project for Pineview Lane and portions of Schmidt Lake Road.

Councilmember Hewitt asked if Schmidt Lake Road would be restriped into three lanes. Public Works Director Cote replied no.

Councilmember Black stated the bike organizations appreciate the striping on the east of I-494 as it has facilitated safer biking. She suggested there be a left turn lane for Providence Academy.

Mayor Johnson opened the public hearing.

There being no one present wishing to give testimony, Mayor Johnson declared the public hearing closed.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Black, to adopt a Resolution Ordering Improvement and Preparation of Plans and Specifications for 2006 Mill and Overlay Project (6101 – Res2006-134). With all members voting in favor, the motion carried.

(7.3) Alcohol Compliance Check Violation for El Azteca of Plymouth, Inc.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 7 of 9

Police Chief Goldstein reported this is the date of hearing on the fourth alcohol compliance check violation that occurred on October 20, 2005 for El Azteca of Plymouth, Inc. The licensee had signed on as a Best Practice Program participant; however, their third violation within three years disqualified them from the Best Practices Program. Section 1206.22, under Presumptive Civil Penalties, Subdivision B, outlines a revocation of license for a fourth violation by an on-sale intoxicating liquor establishment within a three year period. Subdivision G, Other Penalties, states, "nothing in this Section shall restrict or limit the authority of the Council to suspend up to 60 days, revoke the license, impose a civil fine not to exceed \$2,000, to impose conditions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided in this Chapter." The third violation occurred on February 26, 2005, and a \$2,000 fine and a 20-day license suspension were imposed by the Council in accordance with the presumptive penalty.

Mayor Johnson opened the hearing for testimony.

Jeff Horn, attorney, stated he would be representing Marcos Gomez, license holder, and Hector Gutierrez, operating manager. He stated employee Alberto Rodriguez, who sold to the underage individual, was hired on August 5, and he was made aware of the liquor sales policy and instructed on proper procedure. He stated they do not dispute the facts presented. Mr. Rodriguez asked for identification, and even after reviewing it, still made the sale. Mr. Rodriguez is no longer an employee of this establishment.

He stated Mr. Gomez has a company policy that employees need to read and sign a policy for checking identification of patrons. Some of his employees have participated in the Police Department's training session for employees and are trying to comply. In addition, monthly reminders are given to employees on liquor sales.

He showed pictures of reminders to employees that are taped to the cash register as well as throughout the establishment. Employees are consistently reminded to check identifications.

Hector Gutierrez, operating manager, stated he reminds his employees to check identifications regarding liquor sales.

Mayor Johnson stated this is a reoccurring problem, and it's very frustrating because driver's licenses are different colors to distinguish individuals who are under 21 years of age.

Marcos Gomez, owner, stated he employees 20 people, and he hopes the City considers his establishment an asset to the community.

Councilmember Bildsoe stated there are a number of issues. He noted that on May 21, 2004 when an officer was patrolling the area, there were people in the establishment being served alcohol after hours, and the manager was one of the individuals drinking. The City sent correspondence to the establishment indicating that alcohol sales after hours are a violation of the City Code. Mr. Gomez stated the manager was terminated for his actions.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 8 of 9

There being no one else wishing to appear before the Council to give testimony, Mayor Johnson declared the public hearing closed.

Motion was made by Willis, and seconded by Councilmember Bildsoe, to adopt a Resolution Revoking the Liquor Licenses for El Azteca for Liquor Compliance Check Violation (Res2006-108).

It was noted that if the liquor license is revoked, according to State Law, the licensee would need to wait five years before he could apply for a liquor license.

Councilmember Stein stated it is difficult to revoke a liquor license for five years; therefore, he would prefer to impose a \$2,000 penalty with a 60-day license suspension, and if the licensee failed another compliance check violation, the Council would revoke the liquor licenses.

A Substitute Motion was made by Councilmember Stein, and seconded by Councilmember Hewitt, to adopt a Resolution Imposing a \$2,000 Penalty with a 60-Day License Suspension.

Councilmember Bildsoe stated with the substitute motion, the Council would be deviating from the penalty grid and is technically giving the licensee a sixth chance due to the additional warning given. He stated he doesn't support the substitute motion because the system needs to be fair to everyone.

Councilmember Hewitt stated she is concerned that there have been so many compliance check violations at this establishment. She stated a new machine that scans the licenses to determine if a person is underage was installed after their third violation. She stated the Council needs to follow through with the established policies.

Councilmember Slavik stated it's unfortunate that the Council needs to take this type of action, but she agrees with Councilmember Bildsoe that the Council needs to be consistent.

Councilmember Bildsoe stated the City isn't putting the licensee out of business, but the employees of the business didn't follow policies and the State law.

Councilmember Black stated it's very difficult to put 20 people out of work.

Councilmember Stein stated that he doesn't dispute that their license should be revoked, but they have demonstrated that they are trying hard to educate their employees. He stated the Council would be penalizing an on-going, vibrant business due to actions by their employees. The violations occurred when the owner wasn't on the property.

There being no further discussion, the Council voted on the Substitute Motion, and with all members voting against the motion but Stein, the motion failed.

Mayor Johnson stated there are policies in place to assure that minors in the community don't have easy access to alcohol, and the City is trying to assist businesses to be successful and to protect the youth. She stated she would support the motion on the table to revoke the licenses.

Adopted Council Minutes
Regular Meeting of March 14, 2006
Page 9 of 9

She noted that with this business, there have been four to five issues within a 2.5 years period of time.

There being no further discussion and with all members voting in favor of the motion but Stein, the motion carried.

General Business

(8.1) Change Order No. 5 for the Public Safety Building Project

Motion was made by Mayor Johnson, and seconded by Councilmember Bildsoe, to adopt a Resolution Approving Change Order No's 5 and 6 on the Plymouth Public Safety Building Expansion and Remodeling Project (Res2006-135). With all members voting in favor, the motion carried.

(8.2) Schedule Future Study Sessions

Motion was made by Councilmember Slavik, and seconded by Councilmember Bildsoe, to schedule a Special Meeting on June 6 at 7:00 p.m. to discuss the Comprehensive Plan update. With all members voting in favor, the motion carried.

Motion was made by Councilmember Stein, and seconded by Councilmember Bildsoe, to schedule a Special Meeting on June 27 at 6:00 p.m. to discuss the greenhouse gas project. With all members voting in favor, the motion carried.

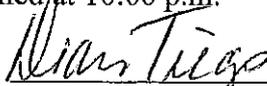
Motion was made by Councilmember Hewitt, and seconded by Councilmember Black, to schedule a Special Meeting on March 21 at 6:00 p.m. to discuss park needs and funding. With all members voting in favor, the motion carried.

Report and Staff Recommendations

(There were no reports and staff recommendations).

Adjournment

Mayor Johnson declared the meeting adjourned at 10:06 p.m.



Diane Tieg, Office Support Representative