

Adopted Minutes Regular Council Meeting January 14, 2014

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 January 14, 2014.

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

ABSENT: None.

STAFF PRESENT: City Manager Callister, 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 Fischer, and City Clerk Engdahl.

Plymouth Forum

Roger Scherer, 12001 Bass Lake Road, spoke about the snow plowing and the amount of road salt that is being used which is destroying his landscaping and retaining wall. Mayor Slavik stated the City isn't responsible for anything placed in the right-of-way of a person's property. She stated staff will contact him regarding the snow removal.

Diane Brower-Johnson, 10825 39th Avenue North, representing residents of the Four Seasons Mall area, requested they receive notifications from the City on the development of the Walmart site even though the majority of them reside outside the 750' required notification area. Mayor Slavik stated no applications for demolition or development of this site have been submitted to the City. She stated notifications are sent to all residents within 750' of the property, which is more than the 250' required by state law, as well as signs placed on the property.

Wolfgang Ebert, 3930 Yorktown Lane, spoke against the proposed Wal-Mart development for the Four Seasons Mall site.

Presentations and Public Information Announcements

There were no presentations or announcements.

Approval of Agenda

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

Consent Agenda

Item 6.08 was removed from the Consent Agenda and item 6.13 was removed from the Consent Agenda and placed under General Business as item No. 8.04.

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

- (6.01)** City Council Minutes for Special and Regular Meetings of December 10, 2013.
- (6.02)** Resolution Approving Disbursements Ending January 4, 2014 (Res2014-001).
- (6.03)** Appointment of City Health Officer for 2014.
- (6.04)** Appointment of City Council Secretary for 2014.
- (6.05)** Resolution Appointing Official Depositories for City Funds for 2014 (Res2014-002).
- (6.06)** Resolution Designating the Plymouth Sun Sailor as the City of Plymouth's Official Newspaper for 2014 (Res2014-003).
- (6.07)** Resolution Accepting Donation from CenterPoint Energy for Fireworks at the Fire and Ice Festival (Res2014-004).
- (6.08)** (This item was removed from the Agenda).
- (6.09)** Resolution Authorizing Payment for Purchases that May Exceed \$100,000 (Res2014-005).
- (6.10)** Resolution Approving a Final Plat and Development Contract for GWS Land Development of Plymouth LLC. For "Terra Vista 3rd Addition" for Property Located South of 59th Avenue between Dunkirk and Vicksburg Lanes (2013104—Res2014-006) and a Resolution Adopting Assessments for Trunk Sanitary Sewer and WaterMain, Terra Vista 3rd Addition (2013104—Res2014-007).
- (6.11)** Resolution Authorizing Condemnation of Land, Peony Lane North of Schmidt Lake Road (10015—Res2014-008).
- (6.12)** Resolution Approving Change Order No. 1 and Payment No. 4 and Final for the Lancaster Lane Mill and Overlay and Watermain Replacement Project (11010—Res2014-009).

(6.13) (This item was removed from the Consent Agenda and placed under General Business as item No. 8.04).

(6.14) Resolution Accepting Streets for Continual Maintenance for Wood Crest of Plymouth 2nd Addition (2010094—Res2014-010).

(6.15) Resolution Accepting Utilities for Continual Maintenance for Hampton Hills 3rd Addition (2011002—Res2014-011).

(6.16) Resolution Accepting Utilities for Continual Maintenance for O'Donnell Woods Addition (2012099—Res2014-012).

(6.17) Resolution Approving an Amendment to the Purchase Agreements and Easements for Streets and Utilities for Trillium Woods (2008085F—Res2014-013).

(6.18) Resolution Awarding Contract for St. Mary's Drainage Improvement (12026—Res2014-014).

(6.19) Resolution Approving Temporary Liquor Licenses for West Medicine Lake Community Club (Res2014-015).

(6.20) Resolution Authorizing the Re-Advertisement for Bids for the Medicine Lake Retaining Wall (13020—Res2014-016).

(6.21) Ordinance Amending Section 1016 of the Plymouth City Code Regarding Plymouth Ice Center Fees (Ord2014—04).

With all members voting in favor, the motion passed.

Public Hearings

(7.01) Public hearing on Implementing Franchise Fees with Northern States Power Company, d/b/a Xcel Energy, Centerpoint Energy Minnesota Gas, d/b/a Centerpoint Energy, and Wright-Hennepin Cooperative Electric Association.

City Manager Callister reported on implementing franchise fees to supplement funding for major street projects. The franchise fee will not eliminate the need for special assessments on major road improvements, but it will minimize the special assessments to stay at a minimal rate. When these fees are implemented, all households would pay the same franchise fees regardless of the value of the home. Tax exempt properties would also have to pay the franchise fees. The income from franchise fees is based on the number of utility connections in the City. There are approximately 33,500 electric connections and 28,000 gas connections. The proposed charge would be a \$2 charge per month per utility. All the franchise fee revenue would be designated for the Street Reconstruction Fund for future capital improvements. The franchise fees would

generate an income of \$2 million annually, which would be equal to a 7% increase in a property tax levy. He stated with major street improvement projects in the future such as Peony Lane and Vicksburg Lane, the City would benefit greatly from the fees. He stated in order to implement the franchise fees, they must be adopted by Ordinance. The fees would take effect after publication and written notice to the utility companies or about 90 days. Staff is recommending holding the public hearing, adopt the Ordinances with CenterPoint Energy, Xcel Energy and Wright Hennepin Cooperative, and send notices to the utilities.

Mayor Slavik opened the public hearing.

Wayne Baunschmidt, a representative from Wright-Hennepin Cooperative stated they support the franchise fee but aren't too excited about collecting the fee.

Mayor Slavik closed the public hearing.

Councilmember Wosje stated that there is support from the business community to proceed with the franchise fees.

Councilmember Willis stated that some people will view this franchise fee as a tax. He stated the Council understands the need to invest and address the public transportation in the City so that it does not become undesirable to its citizens. He stated he doesn't like to raise taxes and fees; however the Council needs to protect the resources and assets and invest in the City's future.

Councilmember Johnson stated she supports the franchise fees and wants to make sure that the revenues go to the reconstruction fund.

Councilmember Bildsoe stated that because of these franchise fees, it will help other street repair projects to go through at a quicker pace.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Johnson, to Adopt the Ordinances Implementing an Electric Service Franchise Fee on Northern States Power Company, A Minnesota Corporation, D/B/A Xcel Energy, its Successors and Assigns, for Providing Electric Service within the City of Plymouth, Minnesota (Ord2014-01), an Ordinance Implementing a Gas Energy Franchise Fee on CenterPoint Energy Minnesota Gas ("CenterPoint Energy") for providing Gas Energy Service within the City of Plymouth, Minnesota (Ord2014-02), an Ordinance Implementing an Electric Service Franchise Fee for Wright-Hennepin Cooperative Electric Association, its Successors and Assigns, for Providing Electric Service within the City of Plymouth, Minnesota (Ord2014-03), Resolution Approving Summary Publication of Ordinance for Northern States Power Company, A Minnesota Corporation, D/B/A Xcel Energy, its Successors and Assigns (Res2014-017), Resolution Approving Summary Publication of Ordinance for CenterPoint Energy Minnesota Gas ("CenterPoint Energy") (Res2014-018), and a Resolution Authorizing Summary Publication of Ordinance for Wright-Hennepin Cooperative Electric Association, its Successors and Assigns (Res2014-019).

Councilmember Prom stated that he doesn't believe the franchise fee will go away in the future.

Mayor Slavik stated she support the franchise fees because it is fairer to the residents all across the City.

With Councilmembers Johnson, Wosje, Willis, Bildsoe, Stein and Mayor Slavik voting yes, and Councilmember Prom voting no, the motion carried.

General Business

(8.01) Rezoning and Preliminary Plat for “Brynwood” for property located at 5635 Vicksburg Lane (2013095) (Tabled from December 10, 2013)

Community Development Director Juetten reported on the Rezoning and Preliminary Plat for “Brynwood” for property located at 5635 Vicksburg Lane. He stated the item was tabled at the December 10, 2013 meeting because of resident’s concerns about traffic flow in the development. At the request of the Council, the applicant was given the opportunity to bring back plat alternatives for their review.

He discussed the four alternative plans that were listed in the staff report.

The following residents from the Spring Meadows neighborhood spoke before the Council and requested Council support for Alternative Plan E:

1. Andy Dahl, 16000 55th Avenue North
2. Chris Empson, 16060 55th Avenue North
3. Kyle Heller, 16215 54th Avenue North
4. Matthew Karban, 5500 Weston Lane North
5. Paul Nick, 5510 Weston Lane North
6. Chris Post, 16330 54th Avenue North
7. Joshua Brotemarkle, 16020 55th Avenue North
8. Deann Torrison, 16010 55th Avenue North
9. Robinson Zamorant, 16055 55th Avenue North
10. Charles Kanazeh, 16015 55th Avenue North
11. Heather Schroder, 16080 55th Avenue North
12. Tony Kuechle, 15985 55th Avenue North
13. Xianbo Zhang, 16065 55th Avenue North

James Hill, representing K. Hovnanian Homes, thanked the Councilmembers for sharing their concerns and giving them concepts to work through with staff. He stated that all the alternatives are acceptable to their company. Their preference would be Alternative D. He also noted that the cul-de-sac on Alternative E can be incorporated into any of the plans.

Motion was made by Councilmember Bildsoe, and seconded by Councilmember Johnson, to approve an Ordinance Amending Chapter 21 (Zoning Ordinance) of the City Code to Classify

Certain Land Located at 5635 Vicksburg Lane (2013095—Ord2014-05); a Resolution Approving a Preliminary Plat for K. Hovnanian Homes of Minnesota, LLC, for “Brynwood” for Property Located at 5635 Vicksburg Lane with Alternative Plan D with cul-de-sac on Weston Lane (2013095—Res2014-020); and a Resolution Approving Findings of Fact for the Rezoning of Land Located at 5635 Vicksburg lane (2013095—Res2014-021).

Councilmember Willis stated he would not support this option because the street is too narrow on this plan. After further discussion, the width on 57th Avenue would better serve traffic and would align with the east side of Vicksburg if the road were wider.

A Substitute Motion was made by Councilmember Willis, and seconded by Councilmember Johnson, to approve the documents noted in the above motion above but for Alternative Plan E.

Councilmember Stein stated he would not support the cul-de-sac option, but would support a temporary construction barrier.

Councilmember Prom asked what would occur to the existing Weston Lane in Spring Meadows in regards to the temporary cul-de-sac. Public Works Director Cote replied the preferred method would be to have the developer complete two separate cul-de-sacs with curbs and gutters.

Councilmember Johnson requested the trail right-of-way maintained. Public Works Director Cote stated the two trails between the neighborhoods would be connected. Parks and Recreation Director Evans added a sidewalk would be constructed that connects the sidewalks in the development, not a trail.

With Slavik, Johnson, Wosje, Willis, Bildsoe and Prom voting yes, and Stein voting no, the motion carried.

(8.02) Preliminary and Final Plat request of EICHI, Inc. for “Kingsview Heights 5th Addition” on property north of 44th Avenue between Harbor and Juneau Lanes in the Wayzata School District (2013096)

Community Development Director Juetten reported on the preliminary and final plat request by EICHI, Inc. for Kingsview Heights 5th Addition on property north of 44th Avenue between Harbor and Juneau Lanes to be platted as one single family lot. In 1984 this parcel was originally platted as an outlot. In 1987 the developer requested the property to be developed as one lot. Council denied the action. In 1996 Council rezoned the lot to a standard zoning district. In 2009 the current owner requested the property to be platted from an outlot to a single family lot and the Council denied. In 2013 the landowners went through court to register the property and determine who has ownership of property. The courts stated the developer does own the property and has full rights to that property. The applicant now requests the property to be platted from an outlot to a single family lot.

The following residents from the Kingsview Heights neighborhood stated they are opposed to the preliminary and final plat request:

1. Josephine and Chester Cizio, 14870 45th Avenue N
2. William Peper, representing Todd Anderson, 4510 Juneau Lane North
3. Todd Anderson, 4510 Juneau Lane North
4. Richard Meyer, 14515 45th Place North
5. Mark Caprio, 4465 Harbor Lane North
6. Pam Koehler, 14905 46th Place North
7. Jeff Langfeldt, 4380 Juneau Lane
8. Michael Jogodka, 4355 Ithaca Lane North
9. Tambilyn Keller, 14515 46th Avenue North
10. Jill Sherritt, 14875 45th Avenue North
11. Joseph Stanek, 4415 Harbor Lane North

Martin Harstad, applicant, stated his father developed the land many years ago. The title issues on the land have been resolved. The family held outlot A and have paid taxes since day one. Hans Hagen did not want to buy the outlot to be developed with the Hagen properties so it remained in the Harstad family. Because of the density requirement under the original PUD zoning ordinance, he couldn't plat the property. It was never intended to be part of the homeowners association. When the taxes were raised because of the valuation from the assessor, the reason was that the land is developable. The Minnesota judge and examiner stated that the Harstad family has full title to the property.

City Attorney Knutson stated there is a court order that states that the developer does own the property. The issue to be voted on is whether the standards under the current ordinance for platting have been met.

Councilmember Johnson explained some of the history with the property. She stated that the zoning ordinance in place now is different than it was before the 1996 rezoning of PUDs. She stated that in 2009, the Council denied the resolution as they needed further clarification on who owned the property. That has been clarified by the courts.

Councilmember Stein asked how the adjacent properties would be affected by the drainage from this property if developed. Public Works Director Cote replied the property meets the City's drainage standards.

Councilmember Prom asked if under the current zoning would this plat would be allowed for only a single family home. Community Development Director Juetten replied yes. The plans haven't been analyzed yet, but the flattest spot on the property would probably meet buffer and wetland setbacks.

Motion was made by Councilmember Wosje, and seconded by Councilmember Stein, to adopt a Resolution Approving a Preliminary and Final Plat for EICHI, Inc. for "Kingsview Heights 5th Addition" for Property Located north of 44th Avenue between Juneau and Harbor Lanes (2013096—Res2014-022) and a Resolution to Adopt Assessments Trunk Sanitary Sewer and Water Main Kingsview Heights 5th Addition (2013096—Res2014-023).

Councilmember Stein asked what was changed from the 2009 resolution for denial, other than the ownership of the property. City Attorney Knutson replied the City has a court order saying the applicant is the owner of the property. If the property meets the current Zoning Ordinance requirements, then there is no basis to deny the application.

Councilmember Wosje stated that he has viewed the property and he would prefer that it remain undeveloped, but the court didn't rule in favor the homeowners associations' claims. He must follow the law when it has been ruled upon by a judge.

Councilmember Stein asked if there were any restrictions that could be placed on the plat that would help minimize drainage issues or if the City has input as to where the house is placed so that the views would be minimized for the neighbors. Community Development Director Juetten replied there are current setbacks on how high they have to be and how far back from the wetlands as well. When they submit their permit requests for removing trees, that can be looked at. The City cannot determine the size of the house, but only that it meets the set back requirements.

City Attorney Knutson stated conditions can be placed on a property for variances. With the application this evening, all the Council can do is to make sure all the conditions are met with the Zoning Ordinance.

Councilmember Willis stated that at the time the City was working on this development, they did have an intent that Outlot J would be a common open space for the development. That wasn't part of the final plat to be recorded. The ownership of the property is not unquestioned and the subdivision regulations have changed. The applicant has proven his ownership, and he can develop the property. He stated he's also sympathetic to the neighbors but he has to vote in favor of the motion.

With Councilmembers Johnson, Wosje, Willis, Bildsoe, Stein and Prom voting yes; and Mayor Slavik voting no, the motion carried.

(8.03) Ordinance Amending Section 2005.13 of the City Code and Exception from Section 2005.13 of the City Code Allowing Liquor Sales at the Hilde Performance Center on June 7, 2014

Motion was made by Councilmember Johnson, and seconded by Councilmember Wosje, to adopt an Ordinance Amending Chapter XX, Section 2005 of the Plymouth City Code Concerning Liquor and Beer (Ord2014-06) and a Resolution Approving Exception from Section 2005.13 of the City Code for an Event at the Hilde Performance Center (Res2014-025). With all members voting in favor the motion carried.

(8.04) Grade Separated Crossing on Vicksburg Lane at the Canadian Pacific Railroad (16001)

Councilmember Willis asked what the height of the retaining walls will be and how these walls would impact the wetland areas on the corners of the bridge. Assistant City Engineer Renneberg replied the bridge is to be 30' high so the walls would be approximately 15' to 20' high. In addition, a meeting has been schedule with the regulatory agencies, and the wetlands will be discussed on the northeast and southwest corners of the project.

Chris Empson, 16060 55th Avenue North, requested the Council table this item until more input could be received from the community. His main concern is how a 30' bridge will project noise into their neighborhoods.

Tony Kuechle, 15985 55th Avenue North, stated he prefers to keep the road at grade crossing. He also requested this item be tabled.

Councilmember Johnson stated that funding and timing is involved with this project and it's important to keep the momentum going in order to prevent delays. She stated the current crossing is terrible and is a huge safety issue. Notifications will be given regarding public hearings on the project at specified times. She suggested the residents watch for these publications and notices.

Mayor Slavik agreed with Councilmember Johnson and reiterated the need to keep this project moving due to funding issues.

Motion was made by Councilmember Willis, and seconded by Councilmember Johnson, to Approve a Resolution Approving a Grade-Separated Crossing on Vicksburg Lane at the Canadian Pacific Railroad For Vicksburg Lane from Schmidt Lake Road to Maple Grove Border Reconstruction and Extension Project (16001—Res2014-024).

Reports and Staff Recommendations

There were no Reports or Staff Recommendations.

Adjournment

Mayor Slavik adjourned the meeting at 9:50 p.m.


Sandra R. Engdahl, City Clerk