

**REGULAR MEETING
OF THE COUNCIL OF THE
CITY OF VADNAIS HEIGHTS
AUGUST 3, 2016**

The regular meeting of the Council of the City of Vadnais Heights was held on the above date and called to order by Mayor Johannsen at 7:02 p.m.

Mayor Johannsen provided several announcements.

Everyone present stood and said the Pledge of Allegiance.

ROLL CALL

Upon roll call, the following members were present: Mayor Marc A. Johannsen, Councilmembers: Terry S. Nyblom, Craig A. Johnson and Bob Fletcher.

The following members were absent: Councilmember Gerald J. Auge

Also present were: Kevin Watson, City Administrator; Kathy Keefe, Assistant City Administrator; Mark Graham, City Engineer; Bob Sundberg, Finance Director; Ed Leier, Fire Chief; Caroline Bell Beckman, City Attorney; Mary Matze, Consultant Planner; Jeff Melcoch, Cable Producer; and Beckie Gumatz, Deputy Clerk.

APPROVAL OF AGENDA

Councilmember Nyblom removed item 10B from the agenda under Old Business. He noted that the Lions Club has chosen not to request the amendment to their liquor license for Heritage Days.

Councilmember Johnson removed item 6D from the Consent Agenda to be discussed separately.

Upon motion by Johnson, seconded by Nyblom, it was

16-08-176 “RESOLVED, that the agenda for the August 3, 2016, Council Meeting be approved, as amended.”

Ayes – 4

Nays – 0

The resolution was adopted.

APPROVAL OF MINUTES

A. July 20, 2016 Workshop Meeting

Councilmember Nyblom requested to amend the minutes on Page 1, under Item 3 – Ehlers Economic Development Discussion Review, to reflect that he had requested that two city owned

properties be included in the developer roundtable discussion.

Upon motion by Nyblom, seconded by Johnson, it was

16-08-177 “RESOLVED, to approve the July 20, 2016, Workshop Meeting Minutes, as modified.”

Ayes – 3 Nays – 0 Abstain – 1 (Johannsen)

The resolution was adopted.

B. July 20, 2016 Regular Meeting

Upon motion by Nyblom, seconded by Johnson, it was

16-08-178 “RESOLVED, to approve the July 20, 2016, Regular Meeting Minutes as presented.”

Ayes – 3 Nays – 0 Abstain – 1 (Johannsen)

The resolution was adopted.

APPROVAL OF CONSENT AGENDA

Upon motion by Johnson, seconded by Fletcher, it was

16-08-179 “RESOLVED, that the Consent Agenda items for the August 3, 2016, meeting be approved as follows:

- A. Approve Claims #73161 through #73232, and Electronic Claims #981 through #984 for payment.
A-1. US Bank Visa Payment in the Amount of \$6,540.62
- B. Accept and Acknowledge 2016 Heritage Days Grants/Donations Through August 3, 2016
- C. Approve Resignation of Paid-Per-Call/Duty Crew Firefighter Bob Hill effective July 23, 2016
- ~~D. Approve Resolution Authorizing City Administrator to Dispose of Garceau/Vadnais Market Surplus Equipment and Personal Property~~

Ayes – 4 Nays – 0

The resolution was adopted.

D. Approve Resolution Authorizing City Administrator to Dispose of Garceau/Vadnais Market Surplus Equipment and Personal Property

Councilmember Johnson asked why this item is not part of the procedure the city has for disposing of equipment or surplus materials that currently exists.

Administrator Watson stated that the City Council needs to formally deem the equipment as surplus.

Upon motion by Johnson, seconded by Fletcher, it was

16-08-180 “RESOLVED, to approve the Resolution authorizing the City Administrator to dispose of Garceau and Vadnais Market Surplus Equipment and Personal Property”

Ayes – 4

Nays – 0

The resolution was adopted.

OPEN TO THE PUBLIC

No one wished to speak.

PRESENTATIONS

A. 2015 Audit Report

Steve McDonald of Abdo, Eick & Meyers, LLC gave a presentation on the City’s 2015 Audit.

Councilmember Fletcher asked who is responsible for the audit, as there are no independent signatures on the audit letter. Mr. McDonald responded that the firm is the responsible party. He is also responsible, as he was the managing partner in charge of the audit.

Councilmember Fletcher asked who is most knowledgeable of the audit. Mr. McDonald responded that it is he and his team who performed the work.

Mr. McDonald stated that they had two findings. One is very common in small cities regarding the preparation of financial statements; Finance Director Sundberg does all the financial reporting, as well as the review. These two duties are not adequately segregated. The second finding was that one City Council member who is no longer a member of the City Council, was still listed as a signatory on bank accounts. This finding was remedied following the audit process.

The audit found that the city was in compliance with state statutes.

Mr. McDonald summarized the key financial highlights. The city’s General Fund balance represents about 55%-57% of the following year’s budget. The minimum targets that the State

Auditor’s office and bond rating agencies talk about are between 35%-50%. The ending balance of the General Fund in 2015 was about \$3.3 million.

The city has four small special revenue funds; Community Service, Heritage Days, Solid Waste, and Charitable Gambling. These funds represent about \$149,000.

As far as debt service funds, the city had about \$7.3 million in bonds outstanding at the end of 2015. Mr. McDonald pointed out that all of the bond funds had positive cash and asset balances at the end of the year. The city has sufficient resources for repayment of the bonds.

The city has \$10 million in the capital project fund balance. The majority of those dollars are set aside in TIF districts. Mr. McDonald summarized the other reserve funds; Public Works reserve, Capital Improvements, Park Dedication, and Fire Vehicle and Equipment.

Mr. McDonald detailed the city’s enterprise funds. The water utility fund’s operating revenue exceeded operating expenditures for the four prior years. It also has a steadily increasing cash balance. The ending balance for 2015 was about \$3.5 million. This is a healthy reserve.

Councilmember Fletcher asked if having that much of a positive balance was unnecessary. Mr. McDonald responded that it depends on the city’s long term plans. It also depends on whether the city wants to fully fund major repairs or replacements, or bond for them. Mayor Johannsen added that a policy decision was made to have that reserve so that the city could pay cash for expenditures as they came up.

The city’s sewer fund cash balance is about \$5 million. The surface water management fund currently has \$1,342,000.00.

Mr. McDonald noted that Vadnais Heights performs well compared to peer cities.

Councilmember Johnson asked about the added \$1 million liability in pension funding. Mr. McDonald explained PERA’s unfunded liability. Finance Director Sundberg stated he thinks the number is overstated.

Upon motion by Johnson, seconded by Fletcher, it was

16-08-181 “RESOLVED, to receive the 2015 Audit.”

Ayes – 4

Nays – 0

The resolution was adopted.

B. MnDOT Construction Update

Dale Gade, a North Area Engineer with the Minnesota Department of Transportation, MnDOT, provided an update on the MnDOT construction projects in the area.

Mr. Gade noted that the noisewall recoating is about 99% done. The entire project recoated over

one million square feet of noisewall and took just over seven months to complete. The total cost to MnDOT was about \$3 million. Mr. Gade explained that a new paint system was used on these sections of noisewall.

Another project in the area is the MnPASS/Cayuga project. The project is near substantial completion. The new MnPASS lanes are now in operation, and since November of 2015, about 1,900 accounts have been registered for the new MnPASS lanes. A substantial number of accounts come from zip codes in the Vadnais Heights area.

Councilmember Fletcher asked Mr. Gade to clarify the rules for using the MnPASS lanes. Mr. Gade responded that at any time of day if there are two or more people in a car, or on a motorcycle, they are allowed to use the MnPASS lane. Additionally, when the sign above the lane says "Open," then all cars are allowed in that lane.

One other project causing access issues in Vadnais Heights is the Goose Lake/CR 96 project. Mr. Gade noted that the aesthetic issue with the wall and MnDOT is working to fix it and blend it better. He also mentioned that the ramp from County Road E onto I-35E South will be closed until the end of August.

Mayor Johannsen stated that he has heard comments from residents that there is not enough notice via signage as to which ramps are closed. He also mentioned that all the construction has had negative effects on area businesses.

Councilmember Fletcher asked if I-35E will be better when it is done. Mr. Gade answered in the affirmative.

Mr. Gade noted that there will be a Roundtable Discussion for businesses with MnDOT on Thursday, August 11 from 2:00 – 3:00 pm at the Caribou Coffee located at 1080 Highway 96 E, in White Bear Lake.

Councilmember Nyblom asked what the original completion date for the Goose Lake Bridge project was. Mr. Gade responded that the original completion date was October 2016, and that the project will now be completed by November 2016. Mr. Gade explained the reason for the delay.

Mr. Gade also spoke about the I-694 Corridors of Commerce project that is scheduled to be under construction until the end of 2017.

Councilmember Fletcher stated that he would like there to be a way for people who are coming north on I-35E to choose the left bypass lane on I-694W. Mr. Gade responded that there is not enough space and people would be merging too late.

The final MnDOT project was the inside bridge wall painting of the Edgerton Street bridge in 2016 and Labore Road bridge in 2015 that go over I-35E. The bridge decks were swept, crack sealed, and resurfaced.

PUBLIC HEARINGSA. Ordinance No. 698: Temporary Family Health Care Dwelling Law Opt Out

Planning Consultant Matze explained that the law was passed during the most recent session of the legislature and signed into law by the governor. The law would allow transitional temporary housing for sick relatives. There is an automatic opt-in date of September 1, 2016.

This item was brought to the Planning Commission for general discussion at their May meeting and it was discussed at the City Council workshop on July 6.

There have been some concerns identified by staff, the City Council, and the Planning Commission. One concern relates to the placement of the dwellings. The law requires that the temporary dwellings comply with setback requirements of the city, allow for emergency vehicle access, and require hook-up to a septic system of some kind. These requirements effectively prevent these temporary dwellings from being placed anywhere in the city.

The second major concern is regarding the regulation of these temporary dwellings. The law requires that permits would be issued for an initial six month period, with an option to renew for another six months. The permit also must be acted on within fifteen days. Typically, cities are given sixty days to review an application. The turnaround for these temporary health care dwelling permits is very short and there is a lot of staff review needed.

Staff is recommending that the City Council approve an Ordinance to opt-out of the requirements of Minnesota Statute §462.359.

Ms. Matze also noted that many other cities are also choosing to opt-out of this law.

Mayor Johannsen opened the public hearing at 8:09 pm.

No one wished to speak.

Mayor Johannsen closed the public hearing at 8:09 pm.

Upon motion by Fletcher, seconded by Johnson, it was

- 16-08-182 “RESOLVED, to 1. Approve an ordinance opting-out of the requirements of Minnesota Statute §462.359 based on the following findings:
- a. Minnesota Statute §462.359 is not consistent with City Ordinances or policies,
 - b. The City does not have septic services available for hookup to temporary health care dwellings.
 - c. Enforcement and regulation of temporary health care dwellings would place an unreasonable burden on City Staff.
2. Direct staff to amend the Zoning Code to explicitly prohibit temporary family health care dwellings.”

Ayes – 4

Nays – 0

The resolution was adopted.

B. Minor Site Plan Amendment for Perkins Restaurant – 1045 East County Road E

Planning Consultant Matze stated that Perkins Restaurant is making some exterior façade improvements to their building. They will be putting new stone facing on the pillars, adding new awnings, and new lighting.

Staff is recommending approval of the Minor Site Plan Amendment subject to Perkins Restaurant obtaining a sign permit in order to update any signs.

Councilmember Johnson asked about their schedule for reopening. Ms. Matze responded that she believes they are hoping to be open by the end of August.

Mayor Johannsen opened the public hearing at 8:13 pm.

No one wished to speak.

Mayor Johannsen closed the public hearing at 8:13 pm.

Upon motion by Fletcher, seconded by Johnson, it was

16-08-183 “RESOLVED, to approve the minor site plan amendment for exterior façade improvements at Perkins Restaurant (1045 East County Road E) subject to the following condition:

1. New signage must comply with Section 18.041 (Signage Requirements and Standards) and Chapter 24 (Signs). The applicant must obtain a sign permit for changes to signs.”

Ayes – 4

Nays – 0

The resolution was adopted.

OLD BUSINESS

A. Discussion of 2016 Sanitary Sewer Billing Methodology

Mayor Johannsen asked if anyone in the audience was at the meeting to discuss the Sanitary Sewer Billing Methodology.

Judy Lentsch, 359 Walker Drive, stated that she does not understand the change. Her bill went up \$37 this quarter.

Councilmember Fletcher stated that the City Council was not aware of the change until bills went out. He noted that Finance Director Sundberg was trying to fix the system to be fairer. He

also noted that the City Council discussed ways in which the system might be further tweaked at their workshop earlier tonight.

Finance Director Sundberg stated that the change was passed when the city’s Fee Schedule was amended. He explained the change in billing methodology. Previously, a resident’s water usage from the first quarter would be used to determine their sanitary sewer billing for the entire year. Sanitary sewer billing is a challenge for all cities, as there is not a meter to be read on the sanitary sewer.

Mr. Sundberg outlined the problems with the previous billing methodology. The city has many residents who are gone during the first quarter of billing. When they are billed for the entire year on that basis, they are being undercharged for the second, third, and fourth quarter. The city also has heard from many residents who use more water during the first quarter than any of the other three quarters. Nearly a third of the utility accounts used more water in the first quarter than the second quarter.

He also noted that the city has purchased new software and this is the first quarter using it. It does not have previous quarter’s data to use as a comparison. The new software offers a lot more flexibility and they will be looking at alternative ways for sanitary sewer billing going forward. There was discussion of using the first and fourth quarters.

Under the current system, the actual water usage will determine a resident’s sanitary sewer billing charge, except for the third quarter because during the third quarter, irrigation is more common. For the third quarter, the sanitary sewer billing charge will be based upon the lower water reading of the first and second quarter.

City Engineer Graham mentioned that the city spends \$83,000 per month on sanitary sewer.

Mayor Johannsen stated that the city is looking at the methodology and trying to determine if there is a better way to bill sanitary sewer.

No formal action requested.

NEW BUSINESS

A. Creekview Development Agreement

Planning Consultant Matze noted that the Creekview Preliminary Plat was approved by the City Council at its September 16, 2015 meeting and the Final Plat was approved by the City Council.

Upon motion by Fletcher, seconded by Johnson, it was

16-08-184 “RESOLVED, to approve the Development Agreement for Creekview at 3757 and 3777 Edgerton Street.”

Ayes – 4

Nays – 0

The resolution was adopted.

B. Approve a Policy for Donation of Surplus City Equipment to a Non-Profit Organization

City Administrator Watson stated this was a new law passed by state this year that allows a city to donate surplus equipment to non-profit organizations. Previously, cities were required to sell surplus equipment. The City Council would still need to formally deem the property or equipment as “surplus.”

Attorney Bell Beckman noted that this option of donating surplus equipment is being added to the current policy.

Upon motion by Johnson, seconded by Nyblom, it was

16-08-185 “RESOLVED, to approve the resolution that allows the city to donate surplus equipment to non-profit organizations.”

Ayes – 4

Nays – 0

The resolution was adopted.

C. Discuss Urban Chickens

City Administrator Watson noted the letter received from Mr. and Mrs. John and Christine Schwartz regarding chickens. After further correspondence, he invited them to the City Council meeting to discuss the issue. There was also brief discussion at the previous workshop regarding the city’s current policy on chickens, factors regarding chickens in residential cities, and examples of some cities that do allow urban chickens and some that do not.

Councilmember Fletcher stated that he received a phone call from a resident wondering about the city’s policy on backyard chickens. There was a code enforcement officer who advised the resident that they were in violation of the city code in keeping chickens. He does not believe that chicken regulations should be the same as required for cows, horses, sheep and pigs.

Councilmember Nyblom asked Attorney Bell Beckman if the city’s livestock code specifically addressed chickens. Attorney Bell Beckman responded that it does not specifically say chickens or poultry, but that they would fall under the definition of farm animals.

There was discussion regarding whether or not chickens fall under the definition of livestock.

Mayor Johannsen stated that he believes the city code does not permit any farm animals unless the setback requirements are met.

Angie Eichinger, 3998 McMenemy Street, stated that she has lived in Vadnais Heights for over 30 years and lives on five acres of land. Three years ago, after visiting friends who have chickens, they acquired their own chickens. Originally, it was to teach their children about the food that they eat and give them the responsibility of learning how to raise an animal. Two

weeks ago, a code enforcement officer informed them that they would have to get rid of their chickens. She was surprised that they were not allowed to have chickens. She would like the City Council to pass an ordinance to allow her family, and others, to have backyard chickens.

Mayor Johannsen asked how far from the property line their coop is. Ms. Eichinger responded that it is about 500 feet from another structure. She also stated that her neighbors love the chickens.

Councilmember Fletcher asked how many chickens Ms. Eichinger thinks should be allowed. Ms. Eichinger responded that she believes for a small city lot, maybe six would be a good number. Bu, she does not believe that the same regulations should apply for a small city lot and a five acre lot. She spoke about the regulations in Maplewood and Minneapolis.

Diane Smith, 3973 Woodview Drive, provided information regarding raising backyard chickens. Many city councils have legalized urban chickens. She does not believe the waste smells, as long as the coop is kept clean. She provided information on the production of poultry and the difference between a factory-raised eggs and backyard-raised eggs.

Gina Schmit, 428 Bruns Court, provided an example of an egg from a grocery store, and an egg from a backyard-raised chicken.

Ms. Smith outlined the regulations that she would like to see the city implement. She would like to see up to six fowl allowed on properties of one-half acre or less, and up to ten fowl on properties of over one-half acre and ten fowl, per acre permitted thereafter. She would like to see roosters permitted on properties of two acres or more, with adjacent property owner consent. Renters would need property owner consent to raise fowl. The coop should be a sturdy structure that keeps fowl safe from: heat, cold, win, rain, and predators and must have proper ventilation. If it is a permanent structure, she would like to see a setback requirement of five feet from rear and side property lines. The coops must be kept in sanitary condition with food stored in rodent proof containers. She would also like fowl to have access to the yard free from the coop and run. The owner would be responsible for keeping the fowl on their own property at all times. Slaughtering would be allowed, but would need to be discrete.

Olivia Smith, 3973 Woodview Drive, stated that for two years, she has been going to her neighbor's house to play with their chickens. She would like everyone in the community to be able to raise chickens in their backyard.

Lindy Eichinger, 3998 McMenemy Street, stated that she loves having chickens and they are fun to play with. They help her to get outside and get exercise. She likes eating their eggs. She hopes the City Council will allow them to keep their chickens.

Nick Eichinger, 3998 McMenemy Street, thanked the City Council for supporting this issue. He spoke about his support for urban farming. He stated that he would also like to see the city loosen the requirements for buildings on large lots. He would also like the city to continue to allow bow hunting.

Mary Ellen Smith, 4476 Oakhurst Avenue, stated that she has lived in Vadnais Heights since 1987. She has no objections to chickens. As long as they are well cared for and there are no issues with noise, she would like them to be allowed.

Christine Schwartz, 4536 Foothill Trail, spoke in support of allowing backyard chickens. It allows people to cultivate their own food year round. She also believes it could also help food shelves; as they are always looking for good sources of protein.

Debbie Wiome, real estate agent with Keller Williams who works in Vadnais Heights, stated that she is not a resident of Vadnais Heights but she owns chickens on her property outside of the cities. She noted that when cities put strict restrictions on what people can do on their own property, it is a deterrent for buyers. Originally, she was very opposed to owning chickens, but now she has embraced it.

John Schwartz, 4536 Foothill Trail, stated that while the City Council considers what to do long-term, he would like the city to reconsider making the Eichinger’s get rid of their chickens.

Upon motion by Johannsen, seconded by Nyblom, it was

16-08-186 “RESOLVED, to put a stay on the order regarding the chickens to allow the City Council to consider the issue.”

Ayes – 4 Nays – 0

The resolution was adopted.

Mayor Johannsen noted that this item needs to be referred to the Planning Commission as it would be modifying the Zoning Code. The definition of livestock needs to also be modified. He would direct the Planning Commission to look at lot size and setback requirements. He stated that he believes what a resident does on a five acre lot is very different from someone living in a town home community or someone on a much smaller lot and wants to make sure that by solving one problem, the city does not create many more problems.

Councilmember Fletcher thanked everyone for presenting their information.

It was noted that this item could go to the Planning Commission at their September 27th meeting.

D. Consider Setting August 17, 2016 Workshop and Agenda

City Administrator Watson presented potential items for the August 17, 2016, Council Workshop including: 24-hour quiet zones, as well as continued discussion of the CIP.

Councilmember Nyblom requested that staff provide the City Council with information regarding how the four charitable gambling organizations are complying with the new gambling code requirements.

Upon motion by Nyblom, seconded by Johnson, it was

16-08-187 “RESOLVED, to Set an August 17, 2016 Workshop meeting and Agenda including discussion of 24-hour quiet zones, and continued CIP discussion with a 6:00 p.m. start time.”

Ayes – 4

Nays – 0

The resolution was adopted.

COUNCIL AND DEPARTMENT REPORTS

Fire Chief Leier reported on a structure fire in the Five Star Mobile Home Park where a victim was rescued from inside. Also, last Thursday there was a fire in a home with a resident trapped in the basement. The Fire Department was on scene in five minutes and was able to bring the person out. He also reported that the Tou Fong property has been inspected four times since the last City Council meeting and they are still not in compliance.

Assistant City Administrator Keefe had nothing to report.

City Attorney Bell Beckman had nothing to report.

Finance Director Sundberg had nothing to report.

Planning Consultant Matze reported there are some upcoming ordinance amendments; an ordinance to allow brewpubs, taprooms and microdistilleries, as well as the zoning code amendment for the temporary family health care dwelling units. Staff is also hoping to soon receive the preliminary plat for the Veteran’s Village development.

City Engineer Graham reported that the Community Park playground improvements started on Monday. There have been two deliveries of light poles. The 2016 street project has started. There has been a Goodwill store approved in the City of White Bear Lake on the east side of Centerville Road across from the Culver’s.

City Administrator Watson had nothing to report.

Councilmember Fletcher reported that he attended the Fresh Thyme opening. It is a great establishment and they are doing awesome business already. It is a great addition to the community. He also attended National Night Out and thanked the Fire Department for also being part of that event.

Fire Chief Leier noted that the Fire Department attended 21 National Night Out events.

Councilmember Fletcher reported that he is also requesting a confidential copy of the Forensic Audit of the Vadnais Sports Center.

Councilmember Nyblom had nothing to report.

Councilmember Johnson reported that he attended the opening of Fresh Thyme. It will be a big hit in the community.

Mayor Johannsen reported he attended the ribbon cutting ceremony at Gable Pines. It was a very nice event. A former Mayor's wife did ribbon cutting. He also reported on attending the grand opening of Fresh Thyme; it is a beautiful store. The 2017 budget process will be starting soon.

Upon motion by Fletcher, the meeting was adjourned at 9:37 p.m.

Respectfully submitted,

Kevin Watson, City Administrator

ATTEST:

Marc A. Johannsen, Mayor