

## LILYDALE CITY COUNCIL MEETING

February 13, 2012

**Present** – Mayor A. Pampusch; Council Members W. Peterson, M. Lundberg, R. Bullard, J. Diehl; City Criminal Attorney T. Lehmann (substituting for City Civil Attorney M. O’Brien); Police Chief M. Aschenbrener; Building Inspector D. Neameyer; Clerk M. Schultz; Assistant Lois Owen

**Others Present** – Mike Black, Attorney for Bronco Investments; Kelly Myers, Southview Communities, Inc.; John Wall, The Wall Companies; Rev. Connie McAllister, Mendota Heights United Church of Christ; Danielle Cabot, Patch Reporter; Jeff Weiss of Barr Engineering

The City Council Meeting was called to order at 4:33 PM by Mayor Pampusch. The Pledge of Allegiance was recited.

**Agenda** – There were two additions to the Agenda: 1) Under the Clerk’s Report - Annual action on the insurance having to do with Statutory Tort Limits; 2) Request by John Wall of The Wall Companies to grant approval of the Purchase Agreement to sell the remaining property in the Planned Unit Development to Southview Communities, Inc., the parent entity of Lilydale Senior Living, who is building the senior building. **Motion made by Councilmember Lundberg, Seconded by Councilmember Bullard to approve the Agenda as amended. Passed 4-0. (Councilmember Peterson arrived after the vote.)**

**Minutes** – Councilmember Peterson noted the January 9, 2012 meeting minutes regarding Chet’s Drive-In Liquor Compliance Check Violation did not accurately reflect what he said; and therefore, requested that the words on page two “...and because they have been part of the Best Practices program for most of the time, to therefore” be struck from the minutes. There was then discussion by the Council on the information provided by Tom Voss at the meeting and motion that was subsequently approved. They agreed the motion did not clearly reflect their intent and should be restated in more specific terms.

**A motion was made by Councilmember Diehl, Seconded by Councilmember Peterson to clarify the January motion and to restate it as follows: to resolve that Chet’s be fined \$1,000 and suffer a 3-day suspension of its license with \$250.00 and the license suspension held in abeyance on the condition that they get in Best Practices immediately, have no violations for two years, and that they stay in Best Practices for two years. If any of those three things don’t happen, then they pay \$250.00 and the Council will suspend their license for three days. Passed 4-1. Councilmember Lundberg opposed.** It was clarified that the word “immediately” in the motion meant within 30 days. The Council directed Clerk Schultz send a follow up letter to Chet’s regarding the matter.

**Motion by Councilmember Lundberg, seconding was indiscernible on the tape, to approve the January 13, 2012 Council Minutes as amended. Passed 5-0.**

### **City Civil Attorney – Attorney Tom Lehmann for Mike O’Brien**

Rev. Connie McAllister spoke before the Council about her church’s application to have a gambling permit for purposes of raising money for the playground at United Church of Christ child care center. **Motion by Councilmember Bullard, Seconded by Councilmember Peterson to approve Resolution No. 12-02 approving an application for a one-day charitable gambling**

**permit for the SonShine Learning Center at the Joke Joint Comedy Club on February 25, 2012. Passed 5-0.**

**City Criminal Attorney – Tom Lehmann**

Lehmann summarized the outstanding civil and criminal issues related to the Dec. 2010 liquor violation by Moose Country. They are 1) the criminal violation of serving liquor after hours, 2) the civil penalty for Best Practices violation for serving and displaying liquor after hours, and 3) a proposed amendment to the Lilydale city ordinance to stop serving and displaying liquor after 2 a.m. The concern to Mr. Schaefer, owner of Moose Country, is that he would have to stop serving before the closing hour of 2 a.m. in order to have all liquor glasses, bottles, etc. cleared away by 2 a.m.

Mike Black, Attorney for Bronco Investments (dba Moose Country) spoke before the Council and presented a written proposed amendment to Lilydale city code section 601.06.

Mayor Pampusch said we needed a broader context of the settlement in question for Moose Country. One piece of it is a question of the hours, but she had questions on the other parts of the settlement. Lehmann said that initially it was going to be all part of one settlement but because the Chief has issues with the proposed amended ordinance that we decided we would pull this issue out for separate consideration. With regard to the criminal part of the settlement, Lehmann said that the Court will either not accept Schaefer's plea or continue it for dismissal. He will pay a nominal fine and will also pay \$1,000 to the City for the Best Practices violation and further, that Mr. Schaefer will try to convince the Council that amending the ordinance is something the City should do.

Mike Black gave some context about the proposed amendment and said he had done some checking with how cities of St. Paul and West St. Paul handle their closing time at their liquor establishments. Their ordinances say that people have to be out of the bar and the drinks that were sold by 2 a.m. have to be consumed by 2:30 a.m. He explained this later closing time becomes a competitive issue for Moose Country. Since 2010 Schaefer has been following the closing rules as interpreted by the Mendota Heights Police Dept. but he wants to clarify the issue and go back to what he was doing before 2010, and the best way to ensure that is to amend the ordinance. The concern is how this works with the Police Department. Mr. Schaefer had a meeting with Chief Aschenbrener about the shift change that occurs at 2:30 a.m. and is aware of the issue of overtime pay for police officers.

Chief Aschenbrener said his Police Dept. shift times are really designed for a 1 a.m. closing time which is the way the Lilydale Ordinance used to be. He will have a recommendation for the Council for the March council meeting. The proposed ordinance amendment will be considered at that time.

Last, Attorney Lehmann said the individual who sold cigarettes to a minor at the **Holiday Station** had pleaded guilty and the next step would be to send a letter to the Holiday Station stating the civil penalty fine is \$200.00 for the violation. **Motion by Councilmember Lundberg, seconded by Councilmember Peterson to send a letter to Holiday stating the \$200.00 fine. Passed 5-0.**

**Building Official Report – David Neameyer** – Neameyer said building permit activity has been light, he has closed eight outstanding permits, the Senior Living development is progressing well, and he received an email from the Fire Marshal saying that New York Chinese Restaurant has corrected all but one of the electrical problems.

**Chief of Police Report – Mike Aschenbrener** – Chief Aschenbrener told about an upcoming two hour training session for what to do in the event of a disaster. He would like to hold the session for both Lilydale and Mendota at the same time. The Council asked Clerk Schultz to schedule the training.

**Clerk’s Report – Mary Schultz**

**Financial Report** – Clerk Schultz presented a list of receipts and disbursements for January and current account balances. Clerk Schultz explained that she didn’t have the usual year-to-date versus budget amounts because she is in the process of switching over to a new accounting system. She will prepare that information for the March Council meeting. In answer to a question from the Council about the TIF bonds and payments, Schultz said she would prepare a written summary showing long-term projections on TIF interest and principal payments. The Council also requested a written summary of the Reserve Fund showing 1) an accounting for the difference between the projected revenue and expenses in the budget and 2) an accounting of the extra money from the TIF refund. Mayor Pampusch asked Clerk Schultz to prepare these two summary reports for the next Council meeting.

**Motion by Councilmember Diehl, Seconded by Councilmember Bullard to approve the Financial Reports. Motion passed 5-0. Motion by Councilmember Diehl, Seconded by Councilmember Lundberg to approve the change of our accounting system. Passed 5-0.**

**Minnesota Municipal Clerks Institute** – **Motion by Councilmember Lundberg, Seconded by Councilmember Bullard to approve Clerk Schultz to attend the Minnesota Municipal Clerks Institute. Passed 5-0.**

**Increased Flow at Lift Station** – Clerk Schultz explained that on Jan. 18, 2012 Met Council contacted her stating the flow gauge on Lilydale’s lift station was showing a significant increase. Jeff Weiss explained the presenting issue and possible causes. **Motion by Councilmember Lundberg, seconded by Councilmember Diehl to authorize St. Paul Water to check the water usage to determine where the leak is coming from regardless of the cost. Passed 5-0.** Clerk Schultz clarified that this accelerated reading would just be for residential usage and the commercial meter reading would be done as usual at the end of the month.

**Resolution to Adopt the Dakota County All Hazard Mitigation Plan** – Clerk Schultz summarized that in May of 2010 the Council agreed to participate in the All Hazard Mitigation Plan and since that time the former City Clerk, T. Stafne, had been working with Dakota County to come up with goals and strategies. These were incorporated into a County Plan. The County is asking that all cities that participated to approve the County Plan. Schultz will include pages of the Report that are specific to Lilydale in the March Council packets along with the Resolution for action at the March Council meeting.

New York Chinese Restaurant Fire Code Violations – All the fire code violations have been corrected, with the exception of one minor item.

Resolution No. 12-03 – To Not Waive the Statutory Tort Limits - **Motion by Councilmember Peterson, Seconded by Councilmember Bullard to approve Resolution No. 12-03. Passed 5-0.**

**The Wall Companies – John Wall** – John Wall, owner of the property on which the Luxury Apartments are to be constructed presented a letter to the Council requesting approval to transfer his property to Southview Communities, Inc., the parent entity of Lilydale Senior Living. He explained Council approval is necessary before closing on the property can occur. Kelly Meyers, Vice President of Operations of Southview Communities spoke before the Council explaining what they plan to do with the rest of the property. She explained the ‘footprint’ would remain the same, it will remain a luxury apartment building as planned with 45 units, but there will be an age requirement of 55 or older. The main change is that there would now be one developer of the entire PUD property instead of two.

The Council said they would need additional time to consider the request and consult with Attorney O’Brien.

**Lilydaze Festival** – Mayor Pampusch reported she will hold the first organizational meeting for the 2012 Festival to decide on a date, time, and place and to begin to look for volunteers to chair the different committees to plan and carry out the festival.

There being no further business, the meeting was adjourned at 6:35 PM.

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Lois Owen, Administrative Assistant

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Mary Schultz, City Clerk/Administrator