

## **LILYDALE CITY COUNCIL MEETING**

**July 9, 2012**

**Present** – Mayor Anita Pampusch; Council Members Robert Bullard, John Diehl, Marilyn Lundberg, Warren Peterson; Michael O’Brien, City Civil Attorney; Tom Lehmann, City Criminal Attorney; Mike Aschenbrener, Mendota Heights Chief of Police; Mary Schultz, City Clerk; and Lois Owen, Assistant.

**Others Present** – Jeff Weiss, City Engineer; Ciara Schlichting, Stantec; Laurie Blake, Star Tribune; Tom Swain, Planning Commission; Lance Lemieux, Lilydale Senior Living; John Wall, Highland Bank; Link Wilson and Mindy Michael, Kaas Wilson Architects; Danielle Cabot, Patch Reporter; Don Campbell; Mr. and Mrs. Harrick, Lilydale Garden Center.

The City Council meeting was called to order at 4:30 PM by Mayor Pampusch. The Pledge of Allegiance was recited. Mayor Pampusch said the order of the two public hearings will be switched due to late arrival by one of the participants.

### **PUBLIC HEARING #1 AMENDMENT TO PUD DISTRICT #15**

The Public Hearing was Called to Order. Mayor Pampusch said the Planning Commission had met two weeks ago and came up with recommendations. Tom Swain, representing the Lilydale Planning Commission, was introduced to begin the public hearing and answer questions. Ciara Schlichting representing Stantec, gave an introduction and formally stated the purpose of the Public Hearing: to review the final concept and final development plans for amendment to the Lilydale City Code, Chapter IX, Section 904.07, Subd. 16 entitled PUD District No. 15. Subject property legally described as Lots 1 & 2, Block 1, Riverfront View Addition. Schlichting gave some background to the PUD which includes two buildings to be constructed in two phases. Phase one includes the senior housing building which will be completed soon. Phase 2 was to have included a luxury apartment building along the bluff. However, plans for phase two have changed; therefore, the applicant is requesting an amendment to PUD District #15 to construct a different building, called the “Villas of Lilydale” consisting of 47 independent senior luxury apartments overlooking the Mississippi River. The City received an application to amend the Concept/Final Plan for PUD #15 with proposed changes in unit count, unit mix, gross building area, underground parking spaces, more office space, and an increase in trees and other plantings in the landscaping plan. Schlichting said the Planning Commission recommended approval of the Final Concept Plan with two conditions needing to be met: the developer use a darker color palette; and indicate the type and location of secured bicycle parking on the building permit drawings.

Mayor Pampusch asked for questions from the Council and then the Public. There were no comments from the public. The Hearing was then concluded.

### **PUBLIC HEARING #2 STORM WATER POLLUTION PREVENTION PROGRAM FOR MS4 PERMIT**

Mayor Pampusch called the second hearing to order and explained that this is not a new matter, but rather something the Council reviews every year to solicit comments from the public on the MS4 permit. Jeff Weiss, City Engineer, gave some background information on the Storm Water Pollution Prevention Program. He then presented an overview of the six minimum required control measures and a status report on the measurable goals identified for Lilydale. Weiss noted the MPCA is in the

process of developing a new MS4 permit application and it is currently out for comment. There were no comments from the public. The Hearing was then concluded.

## CITY COUNCIL MEETING

**Agenda** – **Motion by Councilmember Peterson to approve the agenda with two additions, seconded by Councilmember Lundberg:** 1) Direct the Planning Commission to look at the sign ordinance as it applies to lighted signs and 2) The “Note” from Mendota Homes to the City of Lilydale. **Passed 5 – 0.**

**Minutes** – There was one correction to the June 11, 2012 Minutes: Last paragraph, last page – delete word “the” and insert words “one funding a” before “Mississippi Boulevard”, so that it reads “. . . some grants such as one funding a Mississippi Boulevard grant. . .” **Motion by Councilmember Peterson, seconded by Councilmember Bullard to approve the June 11, 2012 Minutes with the one correction. Passed 5 – 0.**

**City Civil Attorney Report** – Attorney O’Brien said that the Mendota Heights Police Dept. conducted under-age liquor sale compliance checks. Two businesses in Lilydale, Sunfish Cellars and Moose Country, failed the check because they sold alcohol to a minor. Both were asked by City Clerk Schultz to show their proof of Best Practices compliance which they did. This is the second violation for both businesses within a 2-year period; therefore, the recommended penalty is they have a \$750 fine and a 3-day suspension of their liquor license. Both businesses have a right to a public hearing to make their case, or a chance to address the Council and explain any extenuating circumstances. The businesses can also accept the penalty upfront. These penalties are part of the City’s best practices policies, not ordinances, and can be adjusted by the Council. **Motion by Councilmember Diehl, seconded by Councilmember Lundberg, that the Council follow our policy of imposing a penalty to Sunfish Cellars and Moose Country of a \$750 fine and a 3-day suspension of their liquor license; and begin this process with a letter to each from Attorney Mike O’Brien telling them the penalty and offering them the option of a formal hearing and also telling them that if they choose not to take the formal hearing, they have the option of coming before us informally to make their case. Passed 5 – 0.**

**City Criminal Attorney Report** – Attorney Tom Lehmann said the City can expect to hear extenuating circumstances from Moose Country in opposition to the proposed penalty and suspension for the recent liquor ordinance violation. Although this is the second violation in two years, the first was a display violation which resulted in a valid challenge to the City’s liquor ordinance.

**Building Official Report** – In the absence of Building Inspector, David Neameyer, there was no verbal report, but a written report was included in the agenda packets.

**Police Report** – Chief Aschenbrener reported that it has been a busy month. He said Tues., August 7th is Night to Unite and residents should contact the police department to register their block party.

**Planning Commission Report** – In the absence of the Planning Commission Chairman, Jim Maher, Tom Swain reported that the Planning Commission met on June 18, 2012 and heard from the applicant, Lance Lemieux, and the city planner and city engineer. Swain stated the Planning Commission has recommended that the request by Lilydale Senior Living LLC for approval of concept and final plans to amend and rezone PUD District No. 15 to allow for the construction of a

47 unit independent senior luxury apartment building on Riverfront View Addition be granted subject to the conditions submitted in the reports from the City's consultants, Ciara Schlichting of Stantec and Jeff Weiss of Barr Engineering.

Swain said the Planning Commission also has a second recommendation on the billboard. It was agreed that until the lease runs out there is nothing that can be done but the Planning Commission unanimously recommended that the City Council authorize and direct the City Attorney to research and report to the Council on whether the City can legally prohibit the use of the billboard on the property after its current lease is expired.

**Motion by Councilmember Diehl, Seconded by Councilmember Peterson to approve the plans submitted to the City and recommended by the Planning Commission with the additional condition that the applicant meets all the requirements for the necessary permits. Passed 5 – 0.**

**Ordinance 12-01 - Amending and Restating Lilydale Municipal Code Section 904.07, Subd. 16, Entitled PUD District No. 15**– Attorney O’Brien explained that once this ordinance is passed it is published within 30 days and then becomes the zoning for Riverfront View Addition. A question was asked about signage, i.e. “Park Here” type of sign, and O’Brien said that this PUD would be covered by our general sign ordinance. **Motion by Councilmember Diehl, Seconded by Councilmember Peterson to approve Ordinance 12-01. Passed 5 – 0.**

**Recommendation of Planning Commission on Authorizing Attorney to research and report on the Billboard** - Councilmember Diehl said that it was a unanimous decision of the Planning Commission to ask the Council what our parameters are for regulating the billboard which is a nonconforming use. Diehl said it would be worth the cost to know legally what the City can do. Councilmember Peterson noted the situation with the billboard will likely change during the 11 year lease period and he did not feel it was advantageous to research the matter at this point in time. **Motion by Councilmember Diehl, Seconded by Councilmember Lundberg to have Attorney O’Brien do a modest (cost-wise) exploration to inform the city about what its legal rights are on regulating use of this particular billboard. Passed 4 – 1 (Peterson opposed).**

**Lighted Signs**– **Motion by Councilmember Lundberg, seconded by Councilmember Bullard to ask the Planning Commission to explore the use of lighted signs in the city and whether our current regulations are adequate. Passed 5 – 0.** Mayor Pampusch asked Planning Commission Member Tom Swain to report this action to Chairman, Jim Maher.

**Financial Note to the City of Lilydale from Mendota Homes** – Councilmember Bullard brought before the Council the still unpaid note to the City, in the amount of \$15,000, owed by Mendota Homes L.L.C. (Mathern). He explained it started out at \$35,000 and was being paid back by John Wall of Highland Bank who took it over from Mathern, previous developer of the Tennis Club Site, only because Mathern said he couldn’t afford to pay it back and because Wall thought it was critical to moving the project forward with the city. Wall paid approximately \$9,700 to the City toward this note and it is footnoted on the City’s Financial Statement. Bullard will write a memo to the Council more about the Note and what his recommendations are. It will be on the agenda for the August Council meeting.

#### **Clerk’s Report**

**- Financial Report** – Looking at the line on the Report called “Dog Tags” which shows \$0.00 used, it was brought up that there are a greater number of dogs in the City, but most do not have dog licenses which is a violation of the city ordinance and could result in a misdemeanor. Clerk Schultz

was urged to put this fact in the Fall Newsletter to encourage more dog owners to license their dogs with the City. **Motion by Councilmember Peterson, seconded by Councilmember Diehl to approve the Financial Report. Passed 5 – 0.**

**-Election Judges** – A list of election judges was presented to the Council for approval. **Motion by Councilmember Lundberg, seconded by Councilmember Diehl to approve the names on the list of election judges. Passed 5 – 0.**

**-Landscape Quotes** – Seven dogwoods had to be removed from around the building. Two quotes to put in new shrubs and apply mulch have been received. Custom Tree Service quoted \$700 and Prescription Landscape quoted \$2,645. **Motion by Councilmember Diehl, Seconded by Councilmember Lundberg to approve the work needing to be done and award the bid to Custom Tree Service (Jerry Murphy). Passed 5 - 0.**

**Mayor's Report**

**- Lilydaze Update** - Mayor Pampusch gave an update on Lilydaze, stating it will be Sept. 15<sup>th</sup> at River Bluffs and sponsorship money is starting to come in. Subcommittees have been formed and the next general meeting will be August 1, 2012.

**- Bluff Management Forum Update** – Mayor Pampusch has drafted a summary of the forum presentation and had it sent to the participants for accuracy and additions/changes. It will then be sent to the various associations and homeowners along the bluff to assist in coming up with a plan for the bluff.

**Special Executive Session - Motion by Councilmember Diehl, Seconded by Councilmember Lundberg to close the meeting for the purposes of a personnel evaluation of the City Clerk. Passed 5 – 0.** The council went into a closed meeting at 6:42 PM and ended the closed meeting at 7:10 PM.

Respectfully submitted,

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Mary Schultz, City Clerk/Administrator

Final copy reviewed by:

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Mayor Anita Pampusch

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Date