

**LILYDALE CITY COUNCIL MEETING**  
**January 8, 2024**

**Present:** Mayor John Diehl and Councilmembers Deborah Cornell, Lyle Hanzal, Bill Kleinman and Mary Kleinberg; Mary Schultz, City Administrator and Kathy Mutch, administrative assistant

**Also Present:** Kori Land, LeVander, Gillen & Miller; Jennifer Koehler, Barr Engineering via internet; Julie Seykora, Planning Commission; and Orlando Ponce

**Agenda:** City administrator Schultz informed Mayor Diehl of two additional items for the agenda: airport noise and the garage lease. These items were added under the city administrator report. The issuance of a conduit bond would follow Open Items on the agenda. **Moved by Councilmember Hanzal and seconded by Councilmember Kleinberg to approve the agenda, as revised. Motion carried 5-0.**

**December 11, 2023 City Council Meeting Minutes** – Mayor Diehl proposed the following amendments:

Motion on Resolution 2023-16 – Moved by Mayor Diehl and seconded by Councilmember Hanzal to “*amend the proposal*” to correct or amend the utility late fee to \$2.00 or 5% whichever is greater. “*The motion to amend carried 5-0.*”

Under Resolution 2023-26 - Schultz explained police and fire increased by \$35,000; elections by \$4,000 (no election last year), and office supplies, trail maintenance and personnel costs were up “*and these increases account for almost all of the budget increases.*”

Under Closed Meeting: The meeting closed at 6:35 p.m. “*and the Council conducted a personnel performance review.*”

Under Open Meeting, final sentence: Moved by Mayor Diehl and seconded by Councilmember Kleinberg to open the meeting at 6:57 p.m. “*and Mayor Diehl provided a summary of the proceedings during the closed meeting.*”

City Administrator Agreement – added before the resolution: “*Councilmember Cornell, chair of the Personnel Committee, presented an updated employment agreement for the clerk/administrator and discussion ensued.*”

**Moved by Mayor Diehl and seconded by Councilmember Cornell to approve the amendments to the minutes of the December 11, 2023 City Council Meeting. Motion on the amendments carried 5-0.**

**Moved by Mayor Diehl and seconded by Councilmember Cornell to approve the minutes of the December 11, 2023 City Council meeting, as amended. Motion carried 5-0.**

**Public Comments** – Orlando Ponce expressed his interest in purchasing the lot at 1124 Sibley Memorial Highway and asked the council to consider its sale. Mr. Ponce explained he had lived in Lilydale for 16 years and, after selling his Lilydale property, he is experiencing seller’s remorse and would like to return. Mayor Diehl provided a brief history on the city owning the lot. Mayor Diehl thanked Mr. Ponce for his comments and indicated the council would discuss his request at a later date.

**Open Items** – Councilmember Cornell asked if the meeting with management of Lilydale Senior Living has taken place. Mayor Diehl reported he spoke with Lance LeMieux about the plugging problems at the lift station. Mr. LeMieux stated people in the senior living business are constantly attacked for this problem and, while he was willing to discuss the problem, he doubted Senior Living was the sole source of the problem.

Councilmember Kleinberg asked Jennifer Koehler, Barr Engineering, if consideration was given to a plugging problem when designing the lift station; or should it have been. Ms. Koehler would respond during the Engineer's Report.

**Issuance of a Conduit 501(c)(3) Facilities Revenue Note** – Dan Burns, Taft Stettinius & Hollister LLP, explained a request to consider the city acting as an issuer of 501(c)(3) facilities revenue note in an amount of approximately \$8,500,000 from Playwrights' Center, Inc. (Borrower), a Minnesota nonprofit corporation. The city would be a conduit and the money and obligations are between the lender, expected to be Sterns Bank, and the borrower. Burns indicated he worked with the city several years ago on a comparable project, VEAP.

Councilmember Kleinman asked if Playwrights' was seeking funding from other municipalities. Mr. Burns replied at this time it was only looking at Lilydale. Mayor Diehl asked about the timeline and was informed closing would be in late February or early March.

Mr. Burns explained, if the city approves, a public hearing must be held and could be scheduled at the February 12 city council meeting. After the hearing the council would consider adoption of a resolution approving the issuance of the notes.

At closing the city will receive an issuance fee of about \$20,000. In response to Councilmember Hanzal's question inquiring if there were restrictions on how the fee could be used, Mr. Burns responded there were none. The city will not be obligated to make any payment on the bond. The payment obligation is with Playwrights' Center. This conduit note will save Playwrights' about \$2 million in interest.

**Resolution 2024-02 Calling for a Public Hearing on the Issuance of a 501(c)(3) Facilities Revenue Note, Series 2024A and Authorizing Publication of a Notice of a Public Hearing** – Moved by Councilmember Hanzal and seconded by Councilmember Kleinman to approve Resolution 2024-02 Calling for a Public Hearing on the Issuance of a 501(c)(3) Facilities Revenue Note, Series 2024A, and Authorizing Publication of a Notice of a Public Hearing. Motion carried 5-0.

**Engagement Letter for Issuance of Conduit Bond** – City administrator Schultz indicated approval was required authorizing the city administrator to sign the engagement letter on behalf of the city. Moved by Mayor Diehl and seconded by Councilmember Hanzal to authorize the city clerk to sign the resolution and engagement letter. Motion carried 5-0.

**Building Official Report** – Four permits were issued and five closed in the month of December.

**Police Report** – City administrator Schultz reported there were 66 incidents and 2 fire calls in the month of December. Mayor Diehl noted he had a discussion with Captain Wegener regarding public safety planning.

**Engineer's Report** – Jennifer Koehler presented the 2024 sanitary sewer and storm sewer work plan priorities as outlined in her memorandum dated January 4, 2024.

- Starting in 2024 Barr will perform annual inspections and provide a summary of the storm sewer maintenance and needed actions.
- A check list to include with the permit application form for all permits required by the city will be coordinated with the city administrator, attorney, and city planner.
- Bluff runoff management planning – Ms. Koehler is finalizing a memo on the planning level concepts and costs that are acceptable to MnDOT to safely redirect the runoff down the bluff from private properties, as outlined in the recently adopted ordinances. The city's role will be coordination between the various properties and providing guidance based on the memo developed.

Councilmember Hanzal questioned when the memo would be ready for review with local homeowner associations (HOAs). Koehler expects the memo to be ready in the first half of 2024.

- Pedestrian trail extension – MnDOT confirmed with the existing speeds and volumes of traffic a beacon system for a pedestrian crossing at Highway 13 would be required. Koehler will continue working with the city of Mendota Heights and MnDOT on potential funding programs and the design of an accessible crossing. The exact location for the pedestrian crossing has not been determined.
- This year Barr plans a video inspection of the sanitary sewer segment at the base of the bluff in coordination with the televising the lower portion of the city stormwater drop structure to review pipe condition and determine next steps. Half of the system north of Highway 13 will be cleaned.

Following up on Councilmember Kleinberg’s question raised earlier in the meeting regarding if consideration was given to a plugging problem when designing the lift station, Koehler stated that regularly occurring lift station breakdowns had not been a known issue for Lilydale at the time of design. She noted since the warranty work was completed there haven’t been any calls to unplug the pumps.

### **City Attorney’s Report**

**Ordinance 2024-01 An Ordinance Repealing and Replacing Lilydale City Code Chapter IV, Sections 401-405 Related to Water and Sewer** – Attorney Land stated this ordinance repeals the existing provisions of Chapter 4, Sections 401-405 and replaces those provisions with a new version of Chapter 4, Sections 401-404. Sections were reorganized and redundant language and language no longer required or relevant were eliminated. Fees were moved to Chapter 11 of the City Code. Attorney Land clarified the ordinance now contains authorization for the summary publication and requires a 4/5 vote of the council. **Moved by Councilmember Cornell and seconded by Councilmember Kleinberg to approve Ordinance 2024-01 An Ordinance Repealing and Replacing Lilydale City Code Chapter IV, Sections 401-405 Related to Water and Sewer. Motion carried 5-0.**

**Resolution 2024-01 Approving the Final Lilydale City Code** –Attorney Land explained minor changes, such as formatting, cross-referencing and renumbering some of the sections, were made to the final Code. **Moved by Councilmember Hanzal and seconded by Councilmember Kleinman to approve Resolution 2024-01 Approving the Final Lilydale City Code. Motion carried 5-0.**

Attorney Land noted the city does not have a codification service; therefore, the city administrator will post and update the City Code online.

**Conflict of Interest Waiver** – Lilydale has had an agreement with the City of Sunfish Lake to store the city’s official records at no cost since 2011. The cities have decided it is fitting to set up a fee for this service. The city administrator requested legal counsel prepare a contract for the storage services.

LeVander, Gillen & Miller has served Lilydale since 2018, and has served Sunfish Lake for many years and was not involved in the original agreement. Under Rules of Professional Responsibility, a conflict of interest exists. Both clients under these Rules are allowed to and have agreed to this consent for the storage of documents between the two governmental agencies.

**Moved by Mayor Diehl and seconded by Councilmember Kleinman to approve the Conflict of Interest Waiver between Sunfish Lake and Lilydale Regarding Storage of Documents Agreement. Motion carried 5-0.**

**Clerk’s Report** – The financial reports for December were presented. The deposits include permit fees, public safety aid, an insurance dividend and \$110 from the sale of surplus property. The public safety aid funds will be used for police services. **Moved by Councilmember Hanzal and seconded by Councilmember Cornell to approve the December 2023 financial reports, as presented. Motion carried 5-0.**

**Airport Noise** – City administrator Schultz reported a resident communicated her concern about airport noise. A meeting is scheduled for later this week with a representative of the Metropolitan Airport Commission and Schultz offered to attend the meeting. An update will be given to the council at the next council meeting.

**Garage Lease** – City administrator Schultz indicated payment has been received from the lessee but he has not provided liability insurance. The lessee indicated his insurance agent had never seen a requirement where he would need to purchase general liability insurance for a property he did not own. The city’s agent explained to the lessee it was similar to renter’s insurance. The lessee requested his view be shared with the council and he deemed general liability insurance as cost prohibitive. The council discussed the need to minimize the city’s liability **Moved by Councilmember Hanzal and seconded by Councilmember Cornell to respectfully decline the lessee’s request to waive the general liability insurance, and to either sign the lease and comply or vacate the garage by February 28/29, 2024. Motion carried 5-0.**

**Legal Services Review Committee** – Councilmember Hanzal met with Councilmember Cornell and the city administrator to review the current agreement with LeVander, Gillen & Miller and proposals received from three firms out of the four firms contacted. Following the review, two firms were extended an invitation to interview with the committee. A report and recommendation will be given at the February council meeting.

**Resolution 2024-03 Annual Designations and Appointments** – Mayor Diehl explained the resolution has two sections. The first section lists the annual designations and appointments for 2024. The second section lists ongoing appointments. These appointments do not require annual designation. Mayor Diehl explained this is a way to acknowledge they are part of the team. A chair and vice chair to the Planning Commission are appointed by the Mayor each year. The term of each member’s appointments with staggered terms are listed. **Moved by Mayor Diehl and seconded by Councilmember Hanzal to approve Resolution 2024-03 Annual Designations and Appointments. Motion carried 5-0.**

**Council Comments** – None

**Mayor’s Report** – Mayor Diehl stated he will share his thoughts with councilmembers in writing, as the council was hosting a dinner tonight in honor of city administrator Schultz’s completion of a master’s degree program.

**Adjournment** – **The meeting adjourned at 6:11 p.m.**

Respectfully submitted:

---

Mary Schultz, City Clerk