

**LILYDALE CITY COUNCIL MEETING**  
**September 11, 2023**

**Present:** Mayor John Diehl and Councilmembers Deborah Cornell, Mary Kleinberg and Bill Kleinman; Mary Schultz, City Clerk and Kathy Mutch, administrative assistant (Absent: Councilmember Hanzal)

**Also Present:** Bridget Nason, attorney; Police Captain Wayne Wegener and Julie Seykora

After the Pledge of Allegiance Mayor Diehl took a moment to reflect on September 11<sup>th</sup>.

**Agenda:** Moved by Councilmember Kleinman and seconded by Councilmember Kleinberg to approve the agenda, as presented. Motion carried 4-0.

**August 14, 2023 City Council Meeting Minutes** – Mayor Diehl offered three suggestions, 1) Under police report: This exercise would be more interactive, “if this”, “then this,” (adding) *with an emphasis on local response to specific hypothetical public safety issues*. 2) Under attorney report: (adding) *She also reported that one of the new state laws that deny cities their historic regulatory authority is the law prohibiting cities from housing land use referred to as “Sacred Settlements”*. 3) Under History Committee, to move the resolution amending the membership count before approval of the committee members. **Moved by Mayor Diehl and seconded by Councilmember Kleinberg to approve the minutes of the August 14, 2023 City Council Meeting, as amended. Motion carried 4-0.**

**Public Comments** - None

**Public Hearing to Consider Adoption of an Interim Ordinance (Moratorium) Prohibiting the Establishment or Operation of a Cannabis Business within the City of Lilydale** – Mayor Diehl opened the public hearing at 4:38 p.m. to solicit input from the community related to the potential adoption of an interim ordinance (moratorium) prohibiting the establishment or operation of a cannabis business within the city of Lilydale until January 1, 2025. Attorney Nason provided background on recently enacted legislation relating to cannabis, including, but not limited to:

- The establishment of the Office of Cannabis Management (OCM)
- Legalizing and limiting the possession and use of cannabis and certain hemp products by adults
- Providing for the licensing, inspection, and regulation of cannabis and hemp businesses
- Taxing the sale of cannabis flower, cannabis products, and certain hemp products
- Establishing grant and loan programs
- Amending criminal penalties
- Providing for expungement of certain convictions, and
- Providing for the temporary regulation of certain edible cannabinoid products

The legislation requires the OCM to work with local governments to develop model ordinances and allows a local government to pass an interim ordinance, and authorizes city staff to conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of cannabis businesses.

Following the presentation, Ms. Nason explained the city can at this time take no action, as licenses will not be issued before 2025, or the city council can adopt the interim ordinance and conduct a study on the regulations the city may wish to enact and publish a summary of the ordinance.

No comments from the public were made and Mayor Diehl closed the public hearing at 4:50 p.m.

Mayor Diehl recognized this ordinance clarifies that nothing can happen until 2025 at the city level and nothing is happening at the state level.

Councilmember Cornell asked Attorney Nason to confirm her understanding that in 2025 the city cannot prohibit a cannabis business in its city provided the business passes all the zoning issues. Attorney Nason indicated a license would not be issued until a city provides feedback.

**Ordinance 2023-11 - Moved by Councilmember Kleinman and seconded by Councilmember Cornell to adopt Ordinance 2023-11, an Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Establishment and Operation of Cannabis Businesses Within the City of Lilydale. Motion carried 4-0.**

**Resolution 2023-18 – Moved by Councilmember Kleinberg and seconded by Councilmember Kleinman to approve Resolution 2023-18 Approving the Publication of a Summary of Ordinance No. 2023-11. Motion carried 4-0.**

City administrator Schultz was directed to look into a study. Attorney Nason confirmed all of the cities she represents are adopting an interim ordinance.

**Public Hearing to Consider an Amendment to the Lilydale City Code and Zoning Ordinance Repealing and Replacing the City’s Existing Mississippi River Corridor Critical Area (MRCCA) Regulations and Adopting New MRCCA Regulations** – Mayor Diehl opened the public hearing at 5:00 p.m. to consider an Amendment to the Lilydale City Code and Zoning Ordinance Repealing and Replacing the City’s Existing Mississippi River Corridor Critical Area (MRCCA) Regulations and adopting new MRCCA Regulations.

Attorney Nason provided background on the MRCCA ordinance amendment stating the city has been working on the required MRCCA ordinance for several years and it was added to the city’s comprehensive plan. Beginning in January 2020, all communities located within the MRCCA were required to adopt new MRCCA zoning standards. The Department of Natural Resources (DNR) prepared a model ordinance which addresses all of the requirements and the City Council and Planning Commission have reviewed a draft MRCCA ordinance that complies with the statutory requirements.

The city submitted its draft MRCCA ordinance to the DNR for preliminary review and the ordinance received preliminary approval in October 2022. The Planning Commission held a public hearing on the draft ordinance and the revised ordinance was presented to the council. Attorney Nason provided a redlined version of the ordinance showing substantive changes made to the ordinance following preliminary approval and a draft Ordinance No. 2023-12 was presented. Conditional approval by the DNR has been received and the city is required to adopt its revised MRCCA ordinance within 60 days from August 28, 2023.

No comments from the public were made and Mayor Diehl closed the public hearing and the regular meeting resumed at 5:03 p.m.

With the close of the public hearing the issue of the adoption of Ordinance 2023-11 was before the council. Mayor Diehl noted the MRCCA ordinance is a discrete part of Chapter 9, land use and zoning and the terminology in this part of Chapter 9 should conform to the rest of Chapter 9. Diehl did not want the council to adopt the MRCCA ordinance with the potential for inconsistencies with the rest of Chapter 9. Diehl proposed holding over adoption of Ordinance 2023-12 and Resolution 2023-19 to the October meeting. It was noted that the Planning Commission and the City Council will hold a joint work session on Chapter 9

before the October city council meeting. **Moved by Mayor Diehl and seconded by Councilmember Kleinberg to layover discussion of Ordinance 2023-12 and Resolution 2023-19 to the October 9, 2023 City Council meeting. Motion carried 4-0.**

**Open Items** –Councilmember Cornell asked about three open items:

- 1) Noise ordinance - No action to report.
- 2) A date for the emergency response meeting – Captain Wegener said he was looking to the council for guidance on a timeframe and would need about 2 weeks’ notice to arrange. No date was selected.
- 3) Update on the artwork being donated to the city - Mayor Diehl continues discussion with Terry Wallace. Wallace wants to bring some additional pieces of artwork for a show and sale. When that might be scheduled is open.

**Building Official Report** – In the month of August 9 permits were issued and 2 closed.

With reference to this report, Mayor Diehl noted that almost all of the permit types in the August report were marked as “commercial” property and asked about that designation. City administrator Schultz explained, according to the building code, multi-family properties of more than 2 units such as Riverwood, Riverain, and RiverPointe and are considered commercial property with the permit fee based on the cost of the project. By comparison the city has a flat fee set for residential plumbing and mechanical permits. Attorney Nason is working on a fee schedule that will address this and incorporate Scott Qualle’s input from earlier meetings on this topic. Mayor Diehl proposed bringing Bart Schneider, chair of the Planning Commission, into this discussion, noting in his view, that fees for similar projects should be uniform.

**Police Report** – Captain Wegener reported there were 51 calls with one open case. Highway 13 will be closed beginning Friday, September 15 for the weekend, from just past Moose Country toward Diamond Jim’s with a detour posted. Captain Wegener also reported a new officer, Mark McKernan, was hired.

**Reconsideration of Adoption of Chapter 5 of the City Code** – Attorney Nason stated that at its August meeting the council adopted several revised city code chapters and authorizations for summary publications. Before publication it was determined that some of the existing provisions of the City Code related to tobacco licensing, including the ban on the sale of flavored tobacco products, had not been included in the revised version of Chapter 5. The summary publication has not been published so the prior version of Chapter 5 remains in effect. A revised ordinance and summary publication repealing and replacing Chapter 5, referred to as the September Version of Chapter 5 require approval. To address this issue, the council was asked to reconsider its actions on chapter 5 and act on the corrected version. Nason noted that because all of the ordinances and resolutions were approved in one motion we need to walk back those approvals.

**Moved by Mayor Diehl and seconded by Councilmember Kleinman to reconsider the motion made at the August 14, 2023 council meeting to approve ordinances repealing and replacing various chapters of the City Code. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Kleinman to remove Ordinance 2023-06 from the list of ordinances being considered for approval, and approve the ordinances now on the table. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Cornell the adoption of Ordinance 2023-13, the updated Chapter 5 that includes the tobacco regulation. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Cornell to reconsider the motion made at the August 14, 2023 council meeting to approve the summary publication resolutions for the ordinances repealing and replacing various chapters of the City Code. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Kleinberg to amend the motion on the table to remove the summary publication resolution for Chapter 5 from the list of resolutions being considered for approval. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Cornell to amend the motion that was adopted in August that directed the clerk to publish the summary notices on all the ordinances including chapter 5 and move to ratify that again without the authorization to publish the summary notice of chapter 5. Motion carried 4-0.**

**Moved by Mayor Diehl and seconded by Councilmember Kleinberg the adoption of Resolution 2023-20. Motion carried 4-0.**

**Clerk's Report** – The financial reports for August were presented. Deposits were routine, included permits and charitable gambling. Disbursements were also routine and included the annual fee to Mendota Heights to monitor the lift station. **Moved by Councilmember Kleinman and seconded by Councilmember Kleinberg to approve the August 2023 financial reports, as presented. Motion carried 4-0.**

**Resolution 2023-21, Preliminary 2024 Budget and Proposed Tax Levy** – Adoption of a preliminary 2024 budget and proposed tax levy payable in 2024 is required by September 30 of each year by Minnesota Statute. Discussion began with a meeting of the Finance Committee: Councilmember Hanzal, Councilmember Kleinman and Mary Schultz. A proposed preliminary budget of \$720,749 and a proposed tax levy for the general fund of \$639,186 were discussed. A public hearing to discuss and adopt the final budget and levy is scheduled in December. Mayor Diehl appreciated receiving background materials on police and fire billings and asked if the proposed levy would raise property taxes. City Administrator Schultz stated the proposed levy of \$639,186 has a tax impact on a median valued home (\$398,300) of a \$44 year increase in city taxes. **Moved by Councilmember Kleinman and seconded by Councilmember Cornell to approve Resolution 2023-21, Approving Preliminary 2024 Budget & Proposed Tax Levy Payable in 2024 and Setting Meeting Regarding Final Property Tax Levy and Adoption of Budget. Motion carried 4-0.**

Councilmember Kleinman talked about two changes to the budget; rental for the city hall garage increased from \$1,200/year to \$2,100/year and the City of Sunfish Lake has been notified of an annual charge for rental space of \$1,200 effective January 1, 2024. **Moved by Councilmember Kleinman and seconded by Councilmember Kleinberg to approve city hall garage rental increase from \$1,200 a year to \$2,100 a year and an annual rental space fee of \$1,200 to the City of Sunfish Lake. Motion carried 4-0.**

**Mayor's Report** - Mayor Diehl met with the mayors of Sunfish Lake, Mendota and Mendota Heights. Discussion included cannabis and remote attendance at council meetings. These meetings are something Mayor Diehl had hoped to arrange and Mendota Heights Mayor Levine has been scheduling meetings on a regular basis.

Mayor Diehl asked Councilmember Kleinberg to discuss her suggestion that Lilydale consider joining the Association of Small Cities and she explained the cost to join the association. Councilmember Cornell asked if this association had a lobbyist at the state and federal level and Councilmember Kleinberg acknowledged it did. Mayor Diehl questioned how the Association of Small Cities was different than the League of Minnesota Cities. Councilmember Kleinberg will look deeper into the services it provides.

**Adjournment** – The meeting adjourned at 6:22 p.m.

Respectfully submitted:

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Mary Schultz, City Clerk