

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

**WAYZATA CITY COUNCIL
MEETING MINUTES
April 21, 2020**

AGENDA ITEM 1. Call to Order.

Mayor Willcox called the meeting to order at 7:00 p.m. Pursuant to Minnesota Statute Sec. 13D.015 and because of the COVID-19 pandemic, the City Council Meeting was being held remotely by electronic means using the audio and video conferencing platform, Zoom. Mayor Willcox shared the multiple options for members of the public to submit comments or questions.

AGENDA ITEM 2. Pledge of Allegiance.

AGENDA ITEM 3. Roll Call.

Council Members present: Buchanan, Koch, McCarthy and Plechash. Also present: City Manager Dahl, Community Development Director Goellner, Assistant Planner Kieser and City Attorney Schelzel.

AGENDA ITEM 4. Approve Agenda.

Mrs. McCarthy made a motion, seconded by Mr. Plechash, to approve the agenda, as presented. Upon roll call vote, the motion carried 5/0.

AGENDA ITEM 5. Public Forum.

There were no comments.

AGENDA ITEM 6. New Agenda Items.

Mayor Willcox requested a future Workshop or Council meeting topic to take a hard look at the City's finances to prepare for a possible recession. Mr. Dahl replied that was a wise direction. He recommended a Workshop to look at the current finances and possible scenarios for the remainder of the year. There would be revenue loss in the Motor Vehicle Department and Wayzata Bar & Grill. There was a Capital Improvement Plan discussion planned for the May 19th City Council meeting so this topic fits in well. Mayor Willcox asked if the Council agreed. All were in favor.

AGENDA ITEM 7. Consent Agenda.

Mayor Willcox read the items on the consent agenda and asked if any Council member wished to pull an item for further discussion. Hearing no such request, he asked for a motion to approve the Consent Agenda as presented. Mrs. McCarthy made a motion, seconded by Mr. Buchanan, to approve the consent agenda:

- a. Approval of City Council Workshop and Regular Meeting Minutes of March 10, 2020; City Council Special Meeting Minutes of March 19, 2020; City Council Special Meeting Minutes of March 26, 2020; and, City Council Local Board of Appeal and Equalization, Workshop and Regular Meeting Minutes of April 7, 2020
- b. Approval of Check Register
- c. Approval of Municipal Licenses
- d. Receipt of Police Activity Report

- 1 e. Receipt of Building Activity Report
- 2 f. Adoption of Resolution 17-2020 Approving an Encroachment Permit for 861 Lake
- 3 Street East
- 4 g. Adoption of Second Reading of Ordinance 798 to Provide for Extended Hours of
- 5 Construction for Phase I of Panoway on Wayzata Bay Project
- 6 h. Adoption of Second Reading of Ordinance 799 Authorizing the Issuance of General
- 7 Obligation Tax Increment Financing Bonds, Series 2020A
- 8 Upon roll call vote, the motion carried 5/0.
- 9

10 **AGENDA ITEM 8. New Business.**

11 **a. Consider Adoption of Resolution 16-2020 for a Conditional use Permit for Fee-**

12 **in-Lieu of Parking and Preliminary and Final Plat for Melvin's 235 at 235 and**

13 **239 Lake Street East**

14 Ms. Goellner presented the Development Application from Melvin's 235, LLC requesting

15 approval of a Conditional Use Permit under the City's Fee-in-Lieu of Parking Policy. The

16 application also requested approval of a combined Preliminary and Final Plat to establish

17 new property lines at 235 and 239 Lake Street East. Ms. Goellner discussed surrounding

18 neighborhood zoning, 2030 Comprehensive Plan land use, draft 2040 Comprehensive Plan

19 land use, Conditional Use Permit for fee-in-lieu of parking, preliminary and final plat

20 subdivision, project history, renderings, fee-in-lieu of parking background, site plan,

21 existing conditions, public comments, Planning Commission recommendation and action

22 steps.

23 Mr. Plechash noted the applicant was planning to donate part of the property to be

24 turned into parking and asked how many parking spots the donated land would provide.

25 Ms. Goellner said generally about 35 spaces would exist on the donated land, but it would

26 depend on the final design. Mr. Plechash asked why the applicant needed to pay a fee-in-

27 lieu of parking since they were donating land. Ms. Goellner said an arrangement could be

28 worked out in the development agreement that provided financial relief for that purpose.

29 Patrick Hughes, Property Owner, thanked the staff for their work. He was excited

30 about the project and happy to answer any questions.

31 Mr. Koch mentioned part of the whole agreement was contingent upon a neighbor

32 property and asked what happened if that piece fell apart. Ms. Goellner did not see a risk

33 to the City or the developer based on what was being approved tonight if the deal did not

34 come together. Mr. Koch asked about other parking options. Ms. Goellner said parking

35 would be worked out in future agreements. The developer had looked into other options if

36 the current plan did not come together.

37 Mayor Willcox asked if the City needed to build a parking ramp to meet the

38 requirements or just a parking lot. Ms. Goellner agreed that only a lot was needed;

39 however, the City might want to consider building a two-level ramp for future needs.

40 Mayor Willcox asked if the Conditional Use Permit was sufficient protection for the City

41 in case all the loose ends did not come together. Mr. Schelzel explained the development

42 agreement was a condition of approval for the project. The development agreement

43 provided the City the final piece where all those pieces would need to come together. The

44 developer wanted to move the project as far along as possible so it was ready to go when

45 the pieces did come together. Mayor Willcox asked what was needed from the neighbor.

46 Mr. Schelzel said the neighbor had submitted an application to revise plans and make

1 amendments to their previously approved Planned Unit Development. Mr. Hughes said he
2 thought the pieces were coming together and wanted to move forward simultaneously to
3 build the west end of Wayzata.

4 Mayor Willcox asked for the Council's thoughts. Mr. Plechash was in support, but
5 thought the City should give some accommodation for relief of at least some portion of the
6 fee-in-lieu of parking. Mayor Willcox said a considerable amount of creativity had gone
7 into the project so hats off to the property owner and City staff who worked to put the
8 pieces together.

9 Mayor Willcox asked for a motion on the draft resolution. Mr. Buchanan made a
10 motion, seconded by Mr. Plechash, to Adopt Resolution No. 16-2020, Approving FILOP
11 CUP for Parking and Preliminary and Final Plats for Planned Unit Development at 235 and
12 239 Lake St E. Upon roll call vote, the motion carried 5/0.

13
14 **b. Consider Adoption of Resolution 15-2020 Approving a Side Yard Setback**
15 **Variance, Impervious Surface Variance and Curb Cut Spacing Variance at**
16 **244 Wayzata Boulevard East**

17 Mr. Kieser presented the request from 244 Wayzata Boulevard E for a side yard setback
18 variance, impervious surface variance and a curb cut spacing variance for a 244 square-
19 foot addition to the rear of the principal structure and reconfiguration of the driveway. The
20 project also included two proposed rain gardens for stormwater management. Mr. Kieser
21 talked about the surrounding neighborhood zoning, 2030 Comprehensive Plan land use,
22 draft 2040 Comprehensive Plan land use, the development application, proposed survey,
23 side yard setback variance, existing stairs, proposed floor plan, impervious surface
24 variance, curb cut spacing variance, Planning Commission recommendation, questions to
25 consider and action steps.

26 Mrs. McCarthy asked if all the accessory structures including the garage were
27 staying in place. Mr. Kieser confirmed.

28 Patrick Doolittle, Property Owner, appreciated Mr. Kieser's hard work and thought
29 he did a good job explaining the difficulties.

30 Mayor Willcox asked if the property owner explored an easement on the west side
31 of the property. Mr. Doolittle did, but the property next door was unwilling to give an
32 easement.

33 Mrs. McCarthy asked if the Public Works Department had an issue with the curb
34 cut moving east. Mr. Kieser said Director of Public Works/City Engineer Kelly had
35 reviewed the plans and did not see any concerns or safety issues.

36 Mayor Willcox commented if the addition was shorter, there would be room to use
37 the current driveway. Mr. Kieser said the Planning Commission looked at that option as
38 well. The concern was that it was still very tight. The current plan provided parallel
39 building lines and a more streamlined driveway.

40 Mr. Buchanan asked if the property owner had looked at other materials for the
41 driveway that would be less impervious. Mr. Doolittle said he was not aware of other
42 materials at this time.

43 Mayor Willcox brought the discussion back to the Council to share their thoughts.
44 Mrs. McCarthy thought the requests were reasonable given the age of the home, shape of
45 the lot, lack of easement, and staircase. She was comfortable with the curb cut being moved
46 since the Planning Commission and staff had approved.

1 Mr. Plechash was in favor of the requests, but he did encourage the property owner
2 to look at other driveway materials.

3 Mr. Koch agreed that all three requests seemed reasonable and improved existing
4 conditions.

5 Mr. Buchanan was in agreement and supported the application and variances as
6 outlines.

7 Mayor Willcox was always uncomfortable with a lot of variances, but agreed there
8 were clearly practical difficulties. This was about making the best of the situation and the
9 City did prefer a single-home. Although he did not like variances, it did preserve and
10 improve the property.

11 Mayor Willcox asked for a motion on the draft resolution. Mrs. McCarthy made a
12 motion, seconded by Mr. Buchanan, to Adopt Resolution No. 15-2020, Approving
13 Setback, Impervious Surface and Curb Cut Spacing Variances for Addition and Driveway
14 Relocation at 244 Wayzata Blvd E. Upon roll call vote, the motion carried 5/0.

15
16 **c. Consider Authorization to Execute Right-of-Way Encroachment, Installation
17 and Maintenance Agreement for Heated Sidewalk System at 600 Block of Lake
18 Street East**

19 Mr. Dahl said this item was added to the agenda yesterday. Stacey Carisch, Marquee Place,
20 LLC, requested the City allow a heated sidewalk system in the public right-of-way along
21 Lake Street as part of Phase I of Panoway at the April 7th Workshop. The Council had
22 three main concerns: liability of the City for private improvements on public property;
23 project delay; and the requested 50% contribution of the City. Mr. Dahl updated the
24 Council on actions that had taken place since the Workshop.

25 Mr. Plechash asked what happened if there were not any contingency dollars. Mr.
26 Dahl said staff did not see any viable solutions to contribute outside of those funds.

27 Ms. Carisch thanked staff and the Council and appreciated be added to the agenda.
28 She understood this was short notice. She also said she was hard pressed to accept 25%.
29 There was a lot of concern about the future financial situation, but she still felt like a heated
30 sidewalk benefited the community and complemented the overall project. She suggested
31 creative financing such as Tax Incremental Financing.

32 Terri Huml, Gianni's Steakhouse, said one of the most important aspects of the
33 Panoway project was to prepare for and embrace the winter season. She suggested that the
34 Council consider what Wayzata might be down the road and how to prepare for that today.
35 If Wayzata was going to be a robust winter community, this was the perfect opportunity to
36 make that important section better.

37 Mr. Plechash asked if Ms. Carisch knew the \$100,000 was not going to be available
38 whether or not she would move forward with the project. Ms. Carisch said that was tough
39 question because she was still weighing the request for relief coming from tenants. Mr.
40 Plechash said he was in favor and agreed it would benefit the City. He added the City
41 could not commit to a number, but he wanted to preserve the funds as much as possible.

42 Mr. Schelzel understood that Ms. Carisch nor her attorney had a chance to review
43 the agreement. But in order to not delay, both parties needed to sign as soon as possible.
44 The language would state the City's contribution would be up to \$100,000 dependent on
45 what was left in the contingency fund at the end of construction.

1 Mr. Koch asked about potential delay and whether or not Ms. Carisch had spoken
2 to her tenants about the delay. Ms. Carisch had not spoken to the tenants about the heated
3 sidewalks. The only thing she was hearing from the tenants was rent relief. Ms. Huml was
4 hopeful the project would be completed by Memorial Day, but that urgency was no longer
5 there. She thought as long as any changes fit into the scope of completing the project by
6 mid-June, that would be fine.

7 Mrs. McCarthy asked how much time they had in terms of going back and forth
8 with cost and waivers. Mr. Dahl didn't know, but said the City would not be the hold up.
9 The contractors would need to work with Stahl. Ms. Carisch said the contractors did not
10 see an issue with working that quickly.

11 Mr. Koch asked about Tax Incremental Financing and whether there was room in
12 the fund. Mr. Dahl said he was not sure if the heated sidewalks would be an eligible
13 expense and he was not very optimistic there was money in those districts.

14 Mayor Willcox brought the discussion back to the Council and asked for comments.
15 Mrs. McCarthy said this was a progressive idea and liked the concept. She also liked the
16 environmental benefits. However, she was worried about future finances. She was
17 thinking of the \$100,000 in terms of salaries and potential lay-offs. The money could keep
18 people employed. It was a very nice amenity. She was interested in looking into Tax
19 Incremental Financing funds if there was an ability to cap the donation from the City. She
20 was not in favor of any delay in construction.

21 Mr. Buchanan also liked the idea, but said the discussion should have happened
22 much earlier. The whole process was rushed and to not expect delays was foolish. He was
23 in support of tapping the contingency fund if the money was available, but he was having
24 a hard time being confident.

25 Mr. Koch was in support of the idea and using whatever funds were available from
26 the contingency. It would be a leap of faith on the side of Ms. Carisch. He was glad the
27 tenants were in support and was not worried about a short delay.

28 Mayor Willcox said it was a nice amenity, but not essential. He thought the benefit
29 went mainly to the building and not the City. He said it was a difficult position justifying
30 spending tax dollars that mainly benefited one commercial enterprise who also benefited
31 the most from the Panoway project. He also mentioned that in the past, they had not been
32 team players. The contingency fund and valet parking were real dollars that could go back
33 to the general fund. He thought there would be a real recession and the City would need
34 every dollar. He was in favor of approving the project, but did not support spending City
35 dollars.

36 Mayor Willcox asked for a motion on the agreement. Mr. Koch made a motion,
37 seconded by Mr. Plechash, to authorize staff to approve the Encroachment Agreement and
38 to look to fund the project with Tax Incremental Financing funds and/or Construction
39 Contingency Funds not to exceed \$100,000 for Heated Sidewalk System at 600 Block of
40 Lake Street.

41 Mrs. McCarthy asked about the situation where the contingency funds might be
42 used. Mr. Koch clarified the contingency fund was first and foremost for the Panoway
43 project. Mr. Schelzel added that the not to exceed \$100,000 would first be met with
44 possible Tax Incremental Financing funds and second be met with leftover contingency
45 funds after project completion. Mayor Willcox asked if the City had leftover contingency
46 funds and needed the money elsewhere would it have the ability to redirect where the funds

1 went. Mr. Dahl said generally speaking if the City signed an agreement it was bound to it.
2 He added that some of the dollars in the contingency fund could not return to the general
3 fund regardless. Mr. Plechash said it would be a leap of faith because the number could be
4 \$0 in the end, but thought the heated sidewalk did benefit the City. Mrs. McCarthy asked
5 if it was necessary to add a date that both parties needed to sign by. Mr. Dahl said a date
6 could be added and it could help to expedite the process.

7 Upon roll call vote, the motion carried 3/2 (McCarthy, Willcox).
8

9 **AGENDA ITEM 9. City Manager's Report and Discussion Items.**

10 **a. Upcoming Events/Announcements**

- 11 • COVID-19 Update
 - 12 • Meridian Manor Closing
- 13

14 **b. Council Member Updates/Announcements**

15 Mr. Koch was approached by a resident who asked why the City was prohibiting fishing.
16 Mr. Dahl said unfortunately staff repeatedly saw people not adhering to social distancing
17 guidelines. Since the season closed in a couple of weeks, staff decided to close the season
18 early.

19 Mayor Willcox asked about the flower beds. Mr. Dahl hated to cancel the event.
20 If there was a way volunteers could meet the intent without gathering then it could move
21 forward. Otherwise, the Public Works Department would do it.
22

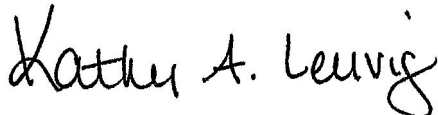
23 **AGENDA ITEM 10. Public Forum Continued (if necessary).**

24 There were no comments.
25

26 **AGENDA ITEM 11. Adjournment.**

27 There being no further business, Mayor Willcox asked for a motion to adjourn. Mrs.
28 McCarthy made a motion, seconded by Mr. Buchanan to adjourn. Upon roll call vote,
29 Mayor Willcox adjourned the meeting at 9:14 p.m.
30

31 Respectfully submitted,
32
33



34 Kathy Leervig
35 City Clerk
36
37

38 Drafted by Sarah Peterson
39 *TimeSaver Off Site Secretarial, Inc.*