

**REGULAR MEETING
OF THE COUNCIL OF THE
CITY OF VADNAIS HEIGHTS
SEPTEMBER 18, 2018**

The regular meeting of the Council of the City of Vadnais Heights was held on the above date and called to order by Mayor Fletcher at 7:01 p.m.

ROLL CALL

Upon roll call, the following members were present: Mayor Bob Fletcher, Councilmembers Terry Nyblom, Heidi Gunderson, Craig Johnson and Greg Urban.

The following member was absent: None.

Also present were: City Administrator Kevin Watson, City Planner/Community Development Director Nolan Wall, Finance Director Bob Sundberg, Fire Chief Ed Leier, City Attorney Caroline Bell Beckman, Deputy City Clerk, Peggy Aho and Jeff Melcoch, Cable Producer.

City Administrator Watson provided several announcements.

APPROVAL OF AMENDED AGENDA

Council Member Urban asked that Item #7B, Approve Contract for 2019 legal services with Erickson, Bell, Beckman & Quinn, P.A., be moved to a standalone item and Mayor Fletcher asked that an update on Body Cameras by the Ramsey County Sheriff's Office be added under Presentations.

Upon motion by Urban, seconded by Johnson, it was

18-09-145 "RESOLVED, that the September 18, 2018 Regular Meeting Agenda be approved as amended."

Ayes – 5 Nays – 0

The resolution was adopted.

APPROVAL OF MINUTES

A. September 4, 2018 Regular Workshop Meeting

Upon motion by Nyblom, seconded by Gunderson, it was

18-09-146 "RESOLVED, to approve the September 4, 2018 Regular Workshop Meeting Minutes as presented."

Ayes – 5

Nays – 0

The resolution was adopted.

B. September 4, 2018 Regular Meeting

Upon motion by Nyblom, seconded by Johnson, it was

18-09-147 “RESOLVED, to approve the September 4, 2018 Regular Meeting Minutes as presented.”

Ayes – 5

Nays – 0

The resolution was adopted.

APPROVAL OF CONSENT AGENDA

Upon motion by Urban, seconded by Gunderson, it was

18-09-148 “RESOLVED, that the Consent Agenda 7A, and 7C-F for the September 18, 2018, meeting be approved as follows:

- A. Approve Claims #76685 Through #76749 and Electronic Claims #1272 Through #1277 for Payment;
 - A.1. US Bank Visa Payment in the Amount of \$3,801.48;
- B. ~~Approve Contract for 2019 Legal Services with Erickson, Bell, Beckman & Quinn, P.A.~~
- C. Approve Contract with Tokle Inspections, Inc. for Electrical Inspection Services;
- D. Approve LG220 Gambling Permit for the Vadnais Heights Economic Development Corporation (VHEDC) to Allow a Raffle at the VHEDC Annual Dinner Event on Tuesday, November 8, 2018;
- E. Approve Designation of Polling Places for the 2019 Elections; and
- F. Approve 2018 Bow Hunting Permit for James Skeie hunting at 3565, 3560, 3554, and 3568 Searle Court, and 3598 and 3556 Edgerton Street.”

Ayes – 5

Nays – 0

The resolution was adopted.

Council Member Urban stated that he is not opposed to entering into a contract with Erickson, Bell, Beckman & Quinn, P.A. (EBBQ), and that he believes they have done a good job. His concern is about how an EBBQ staff person spoke about vehicle forfeitures at a workshop this past year. He said that he is not in favor of vehicle forfeitures. He said that he sees that in the scope of services attached to the contract, and that service for vehicle forfeitures is outside the retainer amount so there is a

financial incentive to work on them. He is not okay with this being an additional item outside of the retainer.

City Attorney Beckman replied that vehicle forfeitures are done on a case-by-case basis, and are mandatory by State law, and all Ramsey County forfeitures in all of the cities are treated the same and the process was adopted by the cities in the contract. The cities are required to do them by state law. She said that if someone has a problem with vehicle forfeitures they should take a look at what is agreed to with Ramsey County. Urban said that he can't support this. Beckman noted that EBBQ bills minimally for this type of work. She also noted that the cities have to process vehicle forfeitures through the DWI standards.

Mayor Fletcher asked if Urban is more concerned about forfeitures in general. Urban said he doesn't think that everyone is treated fairly and he doesn't think vehicle forfeitures should be done. Fletcher said that the Council would need policy discussion on this matter in the future. Beckman said that part of the change would need to come from the Legislature.

Fletcher said that the policy issue is one thing and the second issue is the financial piece. He said he would like some assurance that the benefit of forfeitures dollars exceeds what EBBQ bills the City. Beckman said that the City has an agreement with the cities and the Sheriff's department that all vehicles will be forfeited. City Administrator Watson said that EBBQ bills usually run a couple hundred dollars a month for this work. Finance Director Sundberg said that the revenue from this gets put in with court fines and is a very minimal amount, probably a couple thousand a year.

Urban asked if the Council can discuss vehicle forfeitures at a future workshop. City Administrator Watson suggested moving forward with the contract as proposed with EBBQ and have a policy discussion on vehicle forfeitures at a future workshop and include the Sheriff's office in the discussion. Fletcher asked that Council Members be polled to see if they want a policy discussion on this.

Council Member Johnson asked if the City can choose not to receive the forfeitures. Beckman said she thinks the City could waive a forfeiture.

Upon motion by Gunderson, seconded by Johnson, it was

18-09-149 "RESOLVED, that the Consent Agenda Item 7B for the September 18, 2018 meeting, Contract for 2019 Legal Services with Erickson, Bell, Beckman & Quinn, P.A., be approved presented."

Ayes – 4

Nays – 1 (Urban)

The resolution was adopted.

Beckman said that she will follow-up with Urban on this issue.

OPEN TO THE PUBLIC:

Duane Loehr, 3250 Edgerton, noted his displeasure with the proposed placement of signage near his home. He would like to know where the City Council stands on the proposed sign placement. Planner/Community Director Wall said that he has been in contact with the Home Owners Association for this property and the Association has submitted an application to install signage. Sign permits are an administrative approval. The permit hasn't been issued, they meet the size requirements, but the issue is where it will be located. The Association has to meet the 5 foot setback requirement. Wall noted that this property is zoned as a PUD. One of the ways the sign could be approved for placement at the property line would be for the Council to approve amending the Planned Unit Development Agreement. He said that at this time there is no approval pending. It could be that if they meet the 5-foot setback the permit could be issued.

Wall said that it is his understanding that all parties would prefer the sign to be located as far away as possible far from Mr. Loehr's home, but still on the property. This would not be allowed under the administrative sign permit rules. Wall said that it is his understanding that it could go through the Planned Unit Development amendment process which would go before the Council, and it could accommodate a sign different than what they are proposing now and potentially not be compliant with City Code requirements. Mayor Fletcher said that there is no pending action before the Council at this time. He asked if there is some flexibility to the placement of the sign and it could be kept by the rock pile, would Loehr prefer that. Loehr said that he would prefer it in front of the rock pile. He said he would also prefer the sign to be placed on Edgerton. Fletcher said that the permit will be withheld until the Council can have more discussion about the placement.

Tom Truhler, 4157 Centerville Road, asked for clarification on the processes the Planning Commission and the Council have in place for review and approval of projects once an application has been submitted. City Attorney Beckman, said that the City of Vadnais Heights recently changed its process for holding public hearings. The City has a timeline as to when things must be heard, because it follows Minnesota Statutes Section 15.99, which is a 60 day rule that sets forth a clock running where by a council must make action on a land use application. Beckman said that the Planning Commission has the option to reopen a public hearing after they take testimony and make any changes and add conditions and then the Commission makes a recommendation to the Council. Fletcher said there will always be public input at the Council level. He said he will talk to the Planning Commission Chair to make sure that more input from the public will be heard if things change.

Beckman said that she is working with Wall to locate all the documents Truhler has requested. Truhler said that he would like to see any documents more than one day prior to meeting and he wants to make sure the process works for him.

City Administrator Watson reviewed the permit application process. He said that Wall tries to reply to any questions from the public and also works to prepare the documentation needed for the Planning Commission and the Council. He asked for patience. Wall explained that the Planning Commission typically receives the meeting materials the Thursday or Friday before the meeting and said that application materials submitted are public information and have been placed on the City's website. He said that information on a project is available as it is received at the City.

Boy Scout, Riley Gallivan, 797 N. Oak Drive, introduced himself to the Council. Fletcher asked him about his experience at camp and about his merit badges. Gallivan said that he has 14 merit badges and needs 21 to make Eagle Scout.

PRESENTATIONS:

A. Discussion of Body Cameras: Ramsey County Sheriff's Office

Mayor Fletcher says it seems that we should have the use of body cameras in place and said that he would like a budgeted line item in the 2019 Budget for implementation of body cameras. Fletcher asked what the County's plan is for the implementation of body cameras. Chief Deputy Frazer, Ramsey County Sheriff's office, said that body cameras are at the forefront at the Sheriff's office. The County does want full implementation and has been working on it. He said that there should be no funding implication to the cities in 2019. Timeline is shaped by state statute. The statute requires public input on equipment and for the implementation of the technology. He said that Ramsey County has five field agreements signed with 9 technology vendors. The County is hoping to receive the first two vended products in the first stage soon, and they will be rolled out for testing by staff. He said that he believes that in Q1 and Q2 of 2019 they will have the public discussions with city councils and county board as required by state statutes and in Q3 will make employment hires. They anticipate 3 FTEs for this project, ongoing.

Frazer said that they hope to deploy the project in January 2020. Fletcher asked if there is implementation in January 2020 would the County bring a preliminary cost proposal to the City in the fall of 2018 and also asked if there has been any discussions about who bears what costs of the implementation. Frazer said that they have been having discussions about this. Fletcher said that it sounds like it could be a hefty budget. He said that he believes there is merit to doing a pilot project with just the contract cities and that sometimes partial implementation is better than the whole department.

Council Member Johnson asked if the County can look at what other cities (Minneapolis and St. Paul) have spent on their systems so that the City may try to budget for it. Frazer replied yes and no, if we knew what technology they are looking at he could, but the cost per unit varies almost two fold to two-and-a-half fold. One of the larger cost of this program is the data and the storage of it.

Urban mentioned that he didn't think the Sheriff's Department handled the Stowe family case very well. He believes that the family has been seriously affected by the way the Sheriff's office handled the matter. Deputy Frazer said that this is an open and on-going investigation, and that he cannot comment on it. He believes the officers handled the case by the book. There are still charges outstanding/pending. Fletcher said that he doesn't believe that the system worked the way it is supposed to.

Fletcher thanked Deputy Frazer for giving the Council an update. Council Member Urban noted that he really thinks body cameras need to be a priority. Council Member Gunderson asked how the County will communicate with the cities as the product is implemented and the cost is figured out. She also asked if there is a timeline or calendar of updates. Frazer said that they will beginning updates Q1 with city managers at meeting.

PUBLIC HEARINGS: None

OLD BUSINESS:

A. Considerations for Water Meter Installation Process

City Administrator Watson gave an overview of the water meter installation process. He said that he has had three requests for the Council's consideration. One, when the contractor goes into the homes to replace the water meters, inevitably the valves haven't been used in years or decades and some of them will break. Watson said the City could tell the home owner that the homeowner needs to repair it, but his recommendation is that that City have the contractor repair any breakage and the City will cover the costs. Watson noted that the contractor believes that there could be breakage in about 5% of the installations, and that they believe it will cost between \$10,000 to \$15,000 for repairs. Watson suggested that the City should cover the cost of the repairs.

Council Member Nyblom said that he is okay with the City doing that but asked for documentation, perhaps pictures of the breakage. Watson noted that they can request the contractor document the damage and repair.

Nyblom said he is concerned about non-compliance with gaining access to people's homes and the proposed fee for those that don't allow access to their property. He asked how many residents currently don't allow the City into check meters. Finance Director Sundberg replied that there are about 2. Watson said if we are not able to gain access for the water meter installation, the City has a fee in place similar the one he is proposing, the Meter Reading Not Attainable fee of \$265.00 per quarter.

Upon motion by Gunderson, seconded by Johnson, it was

18-09-150 "RESOLVED, that the Council approves making and paying for minor repairs to damaged valves and pipes during the installation of the new water meters;

approves the current fee schedule for non-compliance with water meter upgrades; and approves the letter for scheduling the water meter installations.”

Ayes – 5

Nays – 0

The resolution was adopted.

Fletcher asked who will receive any complaints that come in during the installation process. Watson replied that it depends what the complaints are, it could be the City or the contractor, but he will be the one to receive the complaints at the City. Nyblom suggested that the City needs to send out more notices to keep people informed. City Administrator Watson noted that information on this will be put in the News and Views section in the Vadnais Press.

B. Consider Approval of the Fire Relief Association’s Request for an Increase to the Pension Amount

Upon motion by Gunderson, seconded by Nyblom, it was

18-09-151 “RESOLVED, that the Council approves the Vadnais Heights Fire Relief Association’s increase to the pension amount from \$4,100 to \$4,400, as requested.”

Ayes – 5

Nays – 0

The resolution was adopted.

Council Member Johnson said that he is fully supportive of this, but said that the City made an agreement when we switched over to the PERA Organization and they are currently overfunded by 142% because of the good stock market, and this will bring it down to 136% funded. He said that there is an agreement that they can go down to 110%. We should probably talk to them about making it a two year average to stay above 110%. Fire Chief Leier said that it is his understanding that we would target that number to try to maintain that funding level and that we would support future increases with that target in mind.

NEW BUSINESS:

A. Consider Preliminary Levy for 2019

Finance Director Sundberg gave a PowerPoint presentation on setting the 2019 levy-budget public hearing for December 4, 2018 and establishing the maximum tax levy amount for 2019. Maximum levy being proposed is 3.4% which is the same as last year. Sundberg explained the purpose of setting the levy.

Sundberg reviewed the components of the Capital Improvement Fund and the main uses of the levy. Police and Fire Departments are increasing, others are remaining relatively flat. He noted that the draft Capital Improvement Fund for 2019 includes purchasing a pavement roller

and trailer, a 1 ton dump truck, a ¾ ton plow truck, fire grass vehicles, fire radios, and replacing ballroom lights at the Commons with LED light bulbs, updating HVAC controls at City Hall; converting street lights to LED; maintaining trails, and replacing or repairing the planter in front of City Hall. The Budget draft also including an extra \$25,000 in the CIP Fund to use if something comes up or it would go towards building up the CIP fund. Sundberg also noted that there should be a draft spreadsheet available in the coming weeks which incorporates items from the Facility Report in the CIP long-term plan. This report will help the City formalize capital expenditures into the future.

Council Member Nyblom asked how we could compare our fleet of trucks to other cities similar in size. City Administrator Watson said that he did get the equipment list from comparable cities but not an actual list of vehicles. Nyblom said he would like to see comparables of public works equipment in White Bear Lake Township and Little Canada. Sundberg said they can work on that.

Sundberg reviewed the tax impacts of the proposed levy to various residential single family homes in the City and other communities' tax rate.

Upon motion by Johnson, seconded by Gunderson, it was

18-09-152 “RESOLVED, that the Council sets the 2019 Levy/Budget Public Hearing for December 4, 2018 at 7:00 p.m. and establishes the maximum tax levy for 2019 at 3.44%.”

Ayes – 5 Nays – 0

The resolution was adopted.

B. Consider Approval of Ordinance 729 Adopting a New City Code

Planning/Community Development Director Wall reviewed the changes made to the proposed Code over the past year in order to codify the City's code. The ultimate goal is to make the Code easier to use and amend in the future. The action before the Council is to repeal the existing Code and adopt the new Code which is reorganized. Wall stated that a number of ordinance amendments have been made over the past year to gambling, residential, commercial districts and revised administrative sections, which have already been adopted and are included in the new City Code.

Mayor Fletcher called a recess at 8:55 p.m.

At 8:58 p.m., Mayor Fletcher called the meeting back to order.

Wall noted that there was a public hearing at the August 28th Planning Commission meeting and there were a few changes that came out of that hearing. Wall highlighted some of those changes.

He pointed out language on line 12968, regarding on-site retail sales only being allowed after application by the owner and determination by the council that each retail sales are not incompatible with surrounding land use and upon such conditions as the council shall establish. Wall asked if this is something the Council wants to have within its purview, and if so then it should be a conditional use. If the Council's doesn't want to be the one responsible for reviewing an application, the language should be changed back to an accessory use and then staff would have the ability and discretion to determine if the use needs to be conditioned or if its consistent with surrounding land use. He said that the language can be left in as proposed or change it back to an accessory use as part of the approval of Ordinance 729.

Council Member Johnson asked if there are any examples of this in the City where this might have occurred. Wall gave an example of Diamond Vogel Paints. They meet the code requirements. They are a wholesaler that has a small component of paint equipment for sale on-site. As written, there isn't a vehicle or avenue for them to get the blessing of the Council for having on-site sales. Johnson and Council Member Gunderson said they would prefer that staff decide. Wall said then that the change would read "on-site retail sales, but only after application by the owner and determination by staff that such retail sales are not incompatible with land use and upon such conditions as the staff shall establish". An example of a condition would be whether they have enough parking, and if not, they would need to apply for a variance.

Resident, Tom Truhler, asked who was involved in the Codification process. Wall replied that various departments at the staff level and the Planning Commission. The City contracted with Municode to do the work but staff members reviewed pertinent sections of the Code and proposed changes, and some changes required full Ordinances to be adopted, specifically zoning and gambling. Public Hearings were held to adopt the various ordinances. Truhler asked if any of the changes being proposed in the new Code would affect the Aster Meadows apartment building application. Wall said that the apartment building would be reviewed under the current Code because that's when the application came in.

Wall reviewed Ordinance 729 which outlines the changes that came out of Planning Commission discussions and additional items staff have since found that need to be amended.

Gunderson said she is prepared to adopt the New City Code. Council Member Urban said that he would like to propose to move line 12930, Section 38-420, Subsection C8, screened outside materials storage to only within Industrial District as a permitted use within that

District. City Administrator Watson said that this change should be a policy decision made by the Council. Urban said that he believes that his proposed change would be positive for businesses throughout the City and he is prepared to make a motion approving the Code with his amendment. Wall replied that he would prefer to make this change at a later date so that he can have time to make sure that the change is consistent with other sections of the Code.

Council Member Nyblom said that he would prefer that action be tabled on Ordinance 729 until Wall has time to do further research and make his recommendation. The Council looked at a map of the Industrial Districts. Gunderson asked if the definition of screening has ever changed. Wall replied that it was probably put as a conditional use so one could make decisions on what type of screening would be allowed.

Gunderson said that she is inclined to not support this amendment unless we define screening. Wall said if Ordinance 729 were to be adopted as written, he can work with Urban on including his proposed amendment in a future ordinance. Urban said that he would prefer to pass the new Code as a whole with his amendment, and that he doesn't think this change warrants its own review.

Upon motion by Urban, seconded by Johnson

18-09-153- "RESOLVED that Council approve amending the Code (Division 13, Industrial District, Section 38-420), by deleting subpart c, item 8, screened outdoor storage of supplies and equipment and move it under permitted uses, Subsection a and it would then be item 8 of that section."

Ayes - 4

Nays – 1 (Nyblom)

The resolution was adopted.

Gunderson said that this has been such a long process but a good one. She said that Urban came forward with this idea and it will be so much better for staff, Council other residents to look for information, and she appreciated all the work that has gone into it, especially Wall. Wall also thanked everyone else that was involved.

Wall brought up one other change that had been missed and which relates to building heights. There is a section in Chapter 20, which is the City's all-inclusive section relating to general building heights. Right now the Code reads that any building that proposes to exceed the maximum building height restriction in an underlying district can apply for height flexibly within the conditional use permit based on standards already in Code. Wall is proposing that the Council consider changing it from what would be required under a conditional use permit

to a variance. He said that a variance has stricter standards to comply with under state statutes and a City has greater discretion to allow or not allow under a variance.

Wall explained the differences in the two thresholds of approval. A 3-story apartment building is subject to the requirements in the R3 zoning district which requires a conditional use permit. Within the conditional use permit process, an applicant is allowed to request to exceed the maximum height restrictions in that underlying zoning district could use permitted use as part of their conditional use permit. Wall proposes that the Council consider that this be a variance not a conditional use permit, because a variance has stricter standards for review. Mayor Fletcher asked if the conditional use process includes the planning commission and the city council and a variance the same. Wall responded yes. City Attorney Beckman said that a conditional use permit allows less discretion for a council, and that a council has more discretion and with a variance there is less discretion and more review by a court. An applicant has more control if they meet the conditions of a conditional use permit. Wall noted that this change was identified through the City's normal process and has taken a while to get before the Council. He said that perhaps the language should not be changed.

Watson said that it is his understanding that if a conditional uses are allowed outright with reasonable conditions tie to them, and it is reasonable then it's allowed and if and the Council would not have a lost to say about it, but with a variance is more black and white and a council can say yes or no. Beckman replied that a conditional use permit is allowed and a variance is not allowed.

Upon motion by Nyblom, seconded by Johnson, it was

18-09-154- "RESOLVED that the language in Chapter 20 remain as originally written to read: that any building that proposes to exceed the maximum building height restriction can apply for height flexibly within the conditional use permit based on standards already in Code."

Ayes – 5

Nays – 0

The resolution was approved.

Upon motion by Urban, seconded by Johnson

18-09-155 "RESOLVED to adopt Ordinance 729 along with the two amendments in the Industrial Districts and Building Heights sections, as approved."

Ayes – 5

Nays – 0

The resolution was approved.

Upon motion by Johnson, seconded by Gunderson, it was

18-09-156 “RESOVLED that the Council approve the publication of the summary Ordinance 729 to be effective November 1.”

Ayers – 5 Nays – 0

The resolution was adopted.

Fletcher asked that the Planning Commission review the amended version of Ordinance 729 at their next meeting.

C. Consider Setting October 16, 2018 as the Public Hearing Date for the 2018 Annual Storm Water Pollution Prevention Program (SWPPP) Meeting

Upon motion by Johnson, seconded by Gunderson, it was

18-09-157 “RESOLVED, that the Council set October 16, 2018 as the Public Hearing Date for the 2018 Annual Storm Water Pollution Prevention Program (SWPPP) Meeting.”

Ayes – 5 Nays – 0

The resolution was adopted.

D. Consider Setting Tuesday, October 2, 2018 Workshop and Agenda

City Administrator Watson noted that Finance Director Sundberg is preparing to discuss banking at the October 2, 2018 Workshop. Council Member Gunderson asked if all the documents will be merged regarding facilities and capital improvement and ready for review. Watson replied that as soon as it is ready it will be brought before the Council at a Workshop. Council Member Nyblom asked if the Lobbyist is prepared to make suggestions as it relates to charitable gambling laws. Watson said the Lobbyist is prepared to make a presentation/proposal and he will send it to Nyblom and then the decision can be made whether to have them attend the Workshop.

COUNCIL AND DEPARTMENT REPORTS:

Fire Chief Leier said that he had nothing to report.

Council Member Gunderson thanked staff for their work on the new City Code. She also noted that she had applied for and was accepted as a Board member for NYFS.

Mayor Fletcher said that he had nothing to report.

Planning/Community Development Director Wall noted that the previously scheduled September 25th Public Hearing at the Planning Commission meeting has been cancelled.

City Attorney Beckman thanked the Council for approving the contract with EBBQ for 2019 services. She noted that she has received a Notice and Pretrial Order for a trial date set for November 8th on the White Bear Lake water issue. She said that she will work with S.E.H. to get them up to speed on the issue and will keep the Council informed.

Council Member Nyblom said that he had nothing to report.

Council Member Urban stated that having the Code on Municode will pay dividends.

Council Member Johnson noted that he attended a VHEDC Board meeting this past month.

ADJOURN MEETING:

A motion was made by Council Member Johnson to adjourn the meeting at 10:05 pm.

Respectfully submitted,

Kevin Watson, City Administrator