

City of Excelsior  
Hennepin County, Minnesota

MINUTES  
EXCELSIOR CITY COUNCIL WORK SESSION

Monday, June 2, 2014

1. CALL TO ORDER/ROLL CALL

Mayor Gaylord called the meeting to order at 6:06 p.m.

Present: Councilmembers, Beattie (arrived at 6:12 p.m), Fulkerson, Miller, and Mayor Gaylord

Absent: Councilmember Caron

Also Present: City Manager Luger, City Attorney Staunton (arrived at 6:27 p.m.), Finance Director Tumberg, City Planner Richards, City Planner Smith, Public Works Superintendent Wisdorf and City Clerk Johnson

2. AGENDA APPROVAL

Miller moved, Fulkerson seconded, to approve the agenda. Motion carried 3/0.

3. 2015 BUDGET PRIORITIZED GOAL LIST

Tumberg presented the 2015 Budget Prioritized Goal List and said the the 2015 budget process which will be underway shortly. Tumberg said both last year's and this year's goals are included in the listing provided to the Council. She said this is the Council's list of items to include in the 2015 budget, which will be published in the local newspaper, and added to the June 16<sup>th</sup> Council agenda for approval via resolution.

Miller said the budget report newsletter that Tumberg created was very impressive and well done. He said he has received calls with positive feedback on this newsletter.

Mayor Gaylord questioned the traffic calming policy, and suggested reducing the speed limit to 20 miles per hour. Luger said this change would require State approval. Luger said Lake and Water Streets are currently 20 miles per hour. Fulkerson said she doesn't think it should be lowered. Mayor Gaylord stated that Second Street is hazardous due to fast drivers. Luger said the traffic calming policy is simply a procedure that a resident would need to go through to request the installation of a stop sign or a speed bump.

Mayor Gaylord also asked if the food and beverage tax item will be added to a referendum on the ballot for the November election. Luger said there will be a work session to discuss the potential referendum.

Mayor Gaylord suggested changing the food and beverage tax to a general tax. Miller agreed and said that four questions need to be asked either in a survey or on

3. 2015 BUDGET PRIORITIZED GOAL LIST - Continued

the ballot: "1) Would you favor a sales tax? 2) Would you favor a food and beverage tax? 3) Would you prefer the levy be increased to pay for improvements in The Commons? or 4) Would you prefer not to see The Commons improved?"

Fulkerson said she conducted her own survey regarding the Museum of Lake Minnetonka in The Commons and received varied opinions. Mayor Gaylord said the overriding question should be, "Do you want the Minnehaha to have a permanent home in Excelsior?"

Miller said he agrees that the food and beverage tax should be listed as 'general sales tax.' Mayor Gaylord directed staff to add the words, 'general sales tax' and 'state bonding.'

Luger asked if the Council had anything else, for purposes of this resolution. Miller questioned if the Council needs to list them by priority. Luger said the Council has already prioritized their 2014 goals and said this resolution is for the purpose of the 2015 budget. Miller said this is the year to focus on The Commons and that is his top priority. Beattie agreed.

4. CAPERS ENFORCEMENT EFFORTS

Mayor Gaylord delayed this item to follow Item 5.

5. PROACTIVE CODE ENFORCEMENT

Luger said that she has heard from some of the Councilmembers on this topic. Luger said the City currently has complaint-driven code enforcement. She said, if the Council decides to proceed with a proactive code enforcement process, staff would recommend that the council select which items they want to enforce.

Smith stated that some of the current enforcement issues are: trash in front of houses, cars, boats and recreational vehicles not currently in use (stored in backyard, old, rusty, expired tabs), along with a complaint from an apartment owner regarding air conditioning units and snow removal in the driveway, etc.

Fulkerson asked about the code enforcement process. Luger said that Smith investigates the complaint for validity, calls the owner to discuss the issue, and, if the issue is not removed or dealt with within a certain period of time, then a letter is sent to the property owner. Luger said if the property owner doesn't meet the deadline stated in the letter, then another letter is sent, after which it may go through the administrative hearing process.

Beattie likes the idea of categorizing certain items during specific times of the year, making it general enforcement, rather than relying on complaints. Beattie said enforcement should be even-handed throughout the entire city. Mayor Gaylord likes that proactive approach. Mayor Gaylord suggested coupling the proactive approach with Public Works using a sheet to list problems they see while they're out in the field. Luger said proactive code enforcement involves driving around the City specifically looking for items, which Public Works is not doing when they are out in the field.

5. PROACTIVE CODE ENFORCEMENT - *Continued*

Fulkerson asked if parking counts are still being done. Luger said parking counts will continue until the Council instructs staff otherwise.

Beattie asked if there is an ordinance regarding residents conducting a business out of their home. Luger said there is a provision on home-based businesses; they must be licensed and must meet certain criteria. Staunton said this revolves around whether there are parking needs for the business.

Luger asked if there are specific items the Council wants enforced. Mayor Gaylord said cars, boats and snowmobiles. Fulkerson said the two trailers on George Street. Smith said staff is looking into the trailers. Beattie said it would be helpful to have a category list of code issues, specifically, those items that impact public usage, like parking on public streets. Luger said the Police Department regulates street parking. Beattie asked about people parking boats on the street before they go into the water. Luger said any street parking issues are enforced by the Police Department, and any property parking issues are enforced by the City.

Luger and Smith will work on putting together a plan for the Council to approve, prior to it being sent out to residents.

Leon Boyd, 44 First Street, addressed the Council. Mr. Boyd suggested that residents put their trash barrels on the boulevard, rather than on the street. Mayor Gaylord said some residents have plantings on the boulevard, or sometimes the boulevard is sloped, so it isn't always practical to put trash barrels on the boulevard.

4. CAPERS ENFORCEMENT EFFORTS

Staunton said he wanted to bring the Capers enforcement matter to the Council's attention. Staunton said there are two parts to this matter: 1) advice if the Council wants to discuss the issue further; and 2) whether or not the Council is interested in pursuing further enforcement on this issue. Staunton said this is a helpful example of how the administrative penalties process unfolds and the unexpected outcome it may have. He said the Heritage Preservation Commission (HPC) may need to look at this issue and examine how they view awnings. Staunton said the ordinance helps staff work through when the City needs to employ administrative penalties and when the City needs to go to court on the issue. Staunton said going to court is an expensive proposition and that funds should be set aside in the budget to plan for it. Staunton said the City needs to make a decision on each case as they arise.

Staunton asked if the Council has certain categories that they would prefer not to use this tool for. He said nuisances and any zoning violations are eligible for the administrative penalties ordinance. Staunton said the City is required to send a letter and that 21 days must lapse before staff may continue with enforcement.

Beattie asked if HPC items are under the zoning enforcement. Staunton said they are both in the regular City Code and also in the zoning code.

4. CAPERS ENFORCEMENT EFFORTS - *Continued*

Fulkerson asked how this places the City with other businesses that may do similarly to what Capers did. Staunton said this is a legitimate concern. Staunton said the City of Minnetonka contracts with a hearing officer, who is a neutral third party and that the City of Minnetonka also allows Excelsior to use that hearing officer.

Beattie asked if this is an issue for the HPC to clarify some of the rules of these issues. Staunton said it's worth talking about with the HPC and should be on their agenda to discuss. Staunton said the HPC could discuss if there are changes that can be made in the future. Miller said this was a better approach than litigation.

Staunton said Lane Braaten, former City Planner, did a good job of keeping track of the code enforcement records. Staunton said the ordinance discourages attorneys from attending the hearing, so only Braaten attended.

Mayor Gaylord said it's a good idea to tighten up the process, but it's going to be challenging.

Beattie said rule-making could be a lot more specific, to reduce the issues of vagueness. Staunton said one thing that he's a little unsympathetic to is the hearing officer. Staunton said the HPC is dealing with issues before the fact, not after the fact. Staunton said the owner wasn't supposed to do anything without a site alteration permit. He said, if they had a site alteration permit, staff could have told them what was not permitted with their plan.

Beattie said the HPC should be able to set clarity on rules.

Staunton said the Martin's Building item will be coming up soon.

Fulkerson asked about the Steele Fitness sign. Luger said this is the time period that they should be able to work on it. Luger said this issue is discussed every month at a staff meeting and that staff is working on a letter to be sent to Steele Fitness about it.

Mayor Gaylord questioned what stops someone else from following the exact same steps and getting the exact same results.

Beattie asked if there is only one hearing officer or a pool. Staunton said there is a pool.

Miller said if some of the findings were correct, we may need to change our standard for those.

Staunton said rule-making is a good good idea to elaborate on our standards and tailor them to the City. Beattie said we need to do this as the City becomes more and more developed and more people challenge our rules, so that we don't have problems in the future.

Luger said staff wanted to let the Council know the status of this item and that this could be scheduled for a closed session of the Council. Fulkerson preferred to have a

4. CAPERS ENFORCEMENT EFFORTS - *Continued*

closed session. Luger suggested it be added to the next meeting, either before or after the work session. Luger said it needs to be noticed as a Closed Executive Session. Miller agreed to this review.

Luger will schedule the closed session. Beattie said it should be in a work session, ahead of the Council meeting.

6. ADJOURNMENT

Beattie moved, Fulkerson seconded, to adjourn at 6:52 p.m. Motion carried 5/0.

Respectfully submitted,

Shirley Johnson  
City Clerk