

City of Excelsior
Hennepin County, Minnesota

MINUTES
EXCELSIOR CITY COUNCIL WORK SESSION

DECEMBER 15, 2014

1. CALL TO ORDER/ROLL CALL

Mayor Gaylord called the meeting to order at 6:08 p.m.

Present: Councilmembers Beattie (arrived at 6:21 p.m.), Caron, Fulkerson, Miller (arrived at 6:10 p.m.), and Mayor Gaylord

Absent: None

Also Present: City Manager Luger, City Attorney Staunton, Public Works Superintendent Wisdorf, and City Clerk Johnson

2. AGENDA APPROVAL

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

3. ACCESS TO CENTER STREET AND THIRD STREET GARAGES

Staunton said that there are several properties with driveway access from the west municipal lot. Staunton said that staff and legal staff have worked for several years to clarify and consolidate the City's ownership of the east and west municipal lots. Staunton said that the west lot was divided into several parcels. Over the last several years, Staunton said legal proceedings have consolidated these parcels into one single property. He said the court ruled that the City of Excelsior owns this property free and clear. During the legal process, Staunton said one question was whether the properties on Third Street and Center Street have the legal right to maintain access through the west municipal lot. Staunton said that the court said the property owners have no legal right for access through the west municipal parking lot but that the City may allow the access to continue. Staunton said the City was not intending to cut off access to these properties but that the purpose was to clarify the property issues, in the future event that the City may build a parking facility, and to obtain clear title to this parking lot. Staunton said that, when the title was completed, it didn't change anything and that these residents still have access through the west municipal parking lot.

Staunton said that Paul Johnson owns two properties, with one of these properties being addressed as 230 West Drive. Staunton said that this property is too small to use as a standalone buildable lot and is below the minimum size to build a garage structure. Staunton said, however, that when this property is combined with Mr. Johnson's other property, it could then support a garage structure. Staunton said that Mr. Johnson is interested in building a garage on this property. Staunton said that these two lots could effectively be combined and the property owner would not have to go through any formality to do so, other than a zoning change. Staunton said the question is whether allowing access to this lot to build on it creates other properties to want to do the same. Staunton said that all three property owners

3. ACCESS TO CENTER STREET AND THIRD STREET GARAGES - *Continued*

have been using the west municipal parking lot as access to their properties and that it wouldn't seem fair to prohibit these properties from having access just because of the City's possible future interest of building a parking ramp, without any set plans at this time.

Staunton said there are three possible solutions: 1) the City could permit the Johnson's to use the west municipal parking lot in the same way the other three properties are currently gaining access to their garages through the lot. Staunton said the City would need to provide a statement to the property owners that they have no property rights to this access; or 2) the City could sell some form of easement to each property, giving them a legal right to access their properties through the west municipal parking lot, but it fixates a path to their properties; or 3) the City could provide some type of license for access to these properties, with a defined scope, and provide that they have the right to access through the west municipal parking lot, through a specific or described path, but reserve the right for the City to change this access in the future (i.e., if the City decides to sell, lease, or build on this property, the City would be allowed to change the described path for these properties). Staunton said a similar situation is the west side of Minnetonka Boulevard, next to Tonka Bay Marina, which is owned by Tonka Bay Sales. Staunton said that the City arranged with Tonka Bay Sales to continue the public parking lot, with the provision that the parking lot could move up and down the area to accommodate any future projects.

Staunton said that staff is looking for the Council's direction to move forward.

Fulkerson asked Staunton if eminent domain could come into play. Staunton said there is a concept called "adverse possession;" however, Staunton said the property owners would not have a right to do this on public property. Staunton said the west municipal lot is now a registered property.

Caron asked when the City allowed the garages on these properties to be built. She asked if there was an old garage that was replaced at one time. Caron said she remembers a lengthy Council discussion about it and asked if there were any agreements signed at that time. Staunton said this didn't come up during title registration. Staunton said one garage appears to have been built within the last 20 years.

Bruce Anderson, 237 Center Street, addressed the Council. Mr. Anderson said that his garage was built in the last 20 years but that there has been continuous access to a tuckunder garage on the property since 1957, before the parking lot was built. Caron said she wondered if there was any agreement signed. Staunton said again that nothing came up during title registration.

Mayor Gaylord asked what Option 3 means for the property owner if the City were to move the property owner's access. Staunton said an easement would provide the owner with a specific path. Staunton said it is possible that the City could also, instead, provide a license or permit indicating that the City may have to change the

3. ACCESS TO CENTER STREET AND THIRD STREET GARAGES - *Continued*

path and would be able to describe the scope of access (i.e., what size vehicles would be allowed to use this access).

Mayor Gaylord asked if the license could be revoked. Staunton said that it could; however, Staunton said the license could also be fashioned to allow the property owner permanent right to have the access and the City to be able to move it around. Staunton said this would be recorded with those properties so that if they were ever sold, the future owner would be aware of it.

Mayor Gaylord said he agrees that the City should be fair to all of these property owners and likes the idea of the license approach.

Caron said the City has clearly allowed at least two of the garages to be built and wouldn't suggest changing the direction now. Caron said she thinks option 3 is the best solution.

Beattie said the pathway to these properties may change over the course of time and thinks this is fair.

Fulkerson asked if the parking spaces in the west municipal parking lot are too close to these properties. Staunton said the parking aisle goes in front of all of these properties, so there shouldn't be an issue in regards to parking spaces. Fulkerson asked if the City would lose any parking spaces; Staunton said no.

Miller said one improvement the City discussed previously was whether to expand the lot. Staunton said it would be another feature of the license for the City to reconfigure and still provide access, and that access could even go through a future structure.

Leon Boyd, 44 First Street, addressed the Council. Mr. Boyd said there used to be a little building in the shape of a golf ball on that lot that housed equipment. Mr. Boyd said that now is a good time to straighten the driveway for the house next to the apartment building. Mr. Boyd said that this driveway was allowed to go down next to the utility meters. Mr. Boyd said that the driveway is essentially useless in the winter and hazardous in the summer. Mr. Boyd suggested a single lane alley to provide access to the apartment building, which would solve the hazardous driving conditions. Staunton said the City has no control over this property. Mayor Gaylord thinks it is worthwhile for the City to talk to the property owner.

The Council agreed to Option 3. Staunton will bring back details of Option 3 for Council review at a future meeting.

4. THE WATERS AT EXCELSIOR CONCEPT, 810 EXCELSIOR BOULEVARD

Luger indicated to the Council that Jay Jensen of The Waters Senior Living was in attendance to present a new concept for a senior living community to be built at the 810 Excelsior Boulevard building, which would also include a portion of the cemetery

4. THE WATERS AT EXCELSIOR CONCEPT, 810 EXCELSIOR BOULEVARD - *Continued*

property adjacent to the 810 Excelsior Boulevard building, and also the Adele's property.

Jay Jensen, The Waters Senior Living, addressed the Council. Mr. Jensen presented their concept for the 810 Excelsior Boulevard building and said their company would like to create a place for seniors and one which he said would also be an asset to Excelsior.

Mr. Jensen said they have several other facilities, along with some facilities that are currently in the process of being built. Mr. Jensen said their newest project in Edina has turned out well. Mr. Jensen said that their concept is to construct The Waters of Excelsior to be a combination of three and four stories, including 30 memory care units and 70 assisted living units. Mr. Jensen said they would draw upon the architectural features of buildings in Excelsior from the past (i.e., front porches). Mr. Jensen said they have not yet had a discussion with the owner of Adele's.

Mr. Jensen said this new senior care facility would generate in excess of \$160,000 in tax revenue per year for Excelsior. Mr. Jensen said he expects the building construction to cost approximately \$20 million. Mr. Jensen said the average age of residents in their facilities are in their mid-80's and that most do not drive. Mr. Jensen said there would be underground parking for employees and those residents that do drive. He said that all exterior lighting would be downward shooting. Mr. Jensen believes this facility will be an asset for the neighborhood.

Mr. Jensen said the steps they need to take would be to purchase the City's property at 810 Excelsior Boulevard, purchase Adele's property, vacate the unused street currently used for parking, and that they would also need a Comprehensive Plan Amendment, a Planned Unit Development (PUD), and a Developer's Agreement. He said they are very excited to work with the City of Excelsior.

Mayor Gaylord asked Mr. Jensen how they decided on this location in Excelsior. Mr. Jensen said he found it from driving around the area and that he also frequents the Old Log Theater, and he also used to go to the Excelsior Amusement Park when he was younger.

Mr. Jensen said they have tried to talk with Adele's but have been unsuccessful so far. Mayor Gaylord said that Adele's is an institution that would be tough for the city to lose.

Mr. Jensen said that the current building at 810 Excelsior Boulevard would be demolished.

Mayor Gaylord questioned if the City is allowed to sell a portion of the cemetery. Staunton said there is a part of the cemetery that has no graves. Staunton said the lots could be combined, the road vacated, and combine all of it, including Adele's, into one parcel. Luger said there is a gravel parking lot adjacent to the 810 Excelsior Boulevard building that is technically cemetery land, but that there have been no plots sold in this area.

4. THE WATERS AT EXCELSIOR CONCEPT, 810 EXCELSIOR BOULEVARD - *Continued*

Beattie asked Mr. Jensen how large of a parcel it is that they are trying to assemble. Mr. Jensen said it would be two acres.

Mayor Gaylord asked if any of their other facilities are located near a cemetery. Mr. Jensen said two of their facilities are located near funeral homes but that they have no buildings next to cemeteries. Mr. Jensen said he feels that having a facility located in Excelsior far outweighs the fact that it would be next to a cemetery. Fulkerson asked if there would be adequate parking available. Mr. Jensen said that, between the underground and surface parking, there would be over 100 parking spaces. Mr. Jensen said they would do a full traffic study to determine peak traffic loads.

Caron asked about the memory care unit and whether his company has any competition for this type of business. Mr. Jensen said that the Ebenezer Society built a memory care facility in Deephaven and there is another facility in Minnetonka called Sunrise. Beattie asked how many units are at Sunrise. Mr. Jensen said they vary from 70 to 80 units and said that the facility he is proposing to build in Excelsior would have 110 units, with each unit having its own washer and dryer. Mr. Jensen said if anyone would like a tour of The Waters of Edina, they are welcome to see what the units look like in that facility. Staunton said that The Waters of Edina is right next to a park and that the parking availability is good.

Mayor Gaylord asked about building height. Mr. Jensen said the building would be three to four stories but said that the fourth story wouldn't look like it's a fourth story because it would be built into the roofline. He said that they are interested in doing a PUD to avoid the height restriction. Mayor Gaylord said he likes the idea of the fourth floor built into the roofline.

Luger asked the Council if they are interested in entertaining the idea of this concept for 810 Excelsior Boulevard.

Beattie asked Mr. Jensen if they would consider a ground lease structure. Mr. Jensen said it would have to be about 99 years. Mayor Gaylord said he likes the \$40,000 financial aspect to the City annually.

Miller said that leasing would gain more revenue to the City. Miller said, in this case, the building would also take out Adele's, so this would also need to be considered. Miller asked if the City wants to add another senior-based facility, similar to the facility off of Powers Boulevard, along with a senior facility across the highway and a lot of low cost housing. Miller questioned what type of mix the City is interested in having in that location.

Fulkerson asked if the City could get public comment on this concept. Beattie said it's premature at this point, since the developer hasn't talked to Adele's, yet.

Beattie asked Mr. Jensen where the location of the building would be. Mr. Jensen said the building would be pushed back towards Highway 7. He said it would be one building, with wings added for interest.

4. THE WATERS AT EXCELSIOR CONCEPT, 810 EXCELSIOR BOULEVARD - *Continued*

Caron said this is a nice concept and it appears that The Waters Senior Living has had good success in other locations; however, Caron said she struggles with the use for this space. She said that the Council has not discussed what it wants to see in this area and that it should be discussed. Caron said she agrees that there is a fair amount of senior population and that there are facilities located around the Excelsior area. She said she doesn't feel it is necessarily a need that Excelsior should provide for, given the size of Excelsior. Caron said she is not convinced that this is the best use for this property. Caron suggested that the Council consider this parcel and the building and whether or not it's a wise decision to consider selling it. Mayor Gaylord agreed that the Council should look at it and explore those options but also keep Mr. Jensen involved. Beattie agreed and said it would be interesting if Mr. Jensen could let the Council know what Adele's says once he talks with them.

Mayor Gaylord asked Mr. Jensen if he has talked to the City of Shorewood, Tonka Bay, or any other cities. Mr. Jensen said they are not interested in any other alternatives than this site. Mr. Jensen said he knows there is a strong senior demand for this location and that their facility would be a real asset to the community. Mr. Jensen said he would like to work with staff and come back to the Council with a report, after he has talked with Adele's.

The Council thanked Mr. Jensen for his time.

5. ADJOURNMENT

Fulkerson moved, Beattie seconded, to adjourn at 6:53 p.m. Motion carried 5/0.

Respectfully submitted,

Shirley Johnson
City Clerk