

Regular Meeting
Monday, September 22, 2014
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- 1 **CALL TO ORDER - 7:00 PM** Mayor Winstead called the meeting to order at 7:00 p.m.
- Present: Councilmembers C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman, and J. Oleson.
- 2 **INTRODUCTORY** None.
- 2.1 **FLAG PRESENTATION** Mayor Winstead led the audience in the pledge of allegiance to the flag.
- 3 **CONSENT BUSINESS**
- 3.1 **Ryan Kashmark; 2010 W. 106th Street; Variance Prevailing Front Yard Setback** Requested Action: In Case 10942A-14, staff and the Hearing Examiner recommend approval of the variance to reduce the prevailing front yard setback from 58.75 feet to 30 feet for a new single-family detached house at 2010 West 106th Street, subject to the conditions listed in the staff report.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to adopt a resolution approving the variance described above, subject to the conditions listed in the staff report. (R-2014-84)
- 3.2 **Organized Collection Consultant with Funding Approval of Phase 3 Approval** Requested Action: Approve a contract with Foth LLC for Phase 3 of organized collection with funding of \$104,500 from the Solid Waste Reserve Fund 535, and authorize the Mayor and City Manager to sign the contract when available.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve the contract with Foth LLC as described above.
- 3.3 **Amendment No. 1 to Maternal, Infant, and Early Childhood Home Visiting (MIECHV-1) Grant Agreement with Minnesota Department of Health (MDH)** Requested Action: Approve Amendment No. 1 to Maternal, Infant, and Early Childhood Home Visiting (MIECHV-1) Grant Agreement with Minnesota Department of Health (MDH).
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve Amendment No. 1 to the MIECHV-1 Grant Agreement as described above.
- 3.4 **Agreement with Bethel University for Student Nurse Clinical Experience** Requested Action: Approve Agreement with Bethel University for Student Nurse Clinical Experience.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve the agreement with Bethel University as described above.

- 3.5 Award of Contract: 2013-201 South Loop Local Road Wayfinding Project**
- Requested Action: Adopt a resolution awarding the 2013-201 South Loop Local Road Wayfinding Project to the Egan Company in the amount of \$868,249.70 and approve funding for various contract changes up to a 20% contingency of the original contract amount (\$173,649.94) for a total project construction authorization of \$1,041,899.64.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to adopt a resolution awarding the 2013-201 South Loop Local Road Wayfinding Project to the Egan Company in the amount described above. (R-2014-85)
- 3.6 Order 2014-902 Overlook Lake Stormwater Outfall Replacement Project**
- Requested Action: Order the 2014-902 Overlook Lake Stormwater Outfall Replacement Project as described in the agenda item.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to order the 2014-902 Overlook Stormwater Outfall Replacement Project.
- 3.7 Travel Expenses City Council -Approve**
- Requested Action: Approve out-of-state travel expenses for Council members Tim Busse, Dwayne Lowman, and Andrew Carlson as described in the agenda materials.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve the out-of-state travel expenses for Council members Busse, Lowman and Carlson.
- 3.8 2015 Health Insurance**
- Requested Action: Approve maximum monthly employer contribution of \$1,300/month for full-time employees and \$605/month for benefit-eligible employees effective January 2015.
- Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve monthly employer contribution for health insurance in 2015 as described above.
- 3.9 October Meeting Schedule Amendment**
- Requested Action: Adopt a resolution amending the October 2014 meeting schedule of City Council Regular and Study meeting dates as described in the agenda item.
- Motion was made by Abrams, seconded by Lowman, to adopt a resolution moving the October 27, 2014, Regular meeting to Thursday, October 30, 2014. No vote was taken at this time.
- Abrams explained her rationale for requesting the October 27th meeting be moved to October 30 is because she inadvertently missed seeing on her calendar that she was unavailable on October 27 when the October meeting calendar was discussed by Council a week ago. She said originally October 27 was a non-meeting date. She said she would not have assigned travel on a meeting week and never anticipated the Council would have rearranged the schedule to have a meeting on October 27. She asked the Council to reconsider the October meeting schedule one more time.
- Mark Bernhardson, City Manager suggested the Council cancel the October 27, 2014, Regular Council meeting and continue those items to the November 3, 2014, Regular meeting rather than have a meeting on a Thursday.

Abrams amended her motion to remove the October 27, 2014, Regular meeting from the calendar, which was seconded by Lowman. No vote was taken at this time.

Winstead said business meetings are traditionally held on Monday so either the Council has a big meeting on November 3 or meets on October 27th as scheduled without Councilmember Abrams.

Baloga mentioned he is not available on October 30.

Lowman said Council has made previous accommodations for him regarding meetings and it's important that the entire Council attend meetings. He expressed his support for not having a meeting on October 27th to accommodate Abrams' absence.

Mayor Winstead called for a vote on the amended motion. It passed 4-3 (Winstead, Busse and Baloga opposing). (R-2014-86)

3.10 Wellhead Protection Plan Amendment and Wellhead Source Water Protection Plan Adopt Resolution

Requested Action: Adopt a resolution adopting the Wellhead Protection Plan Amendment and Source Water Protection Plan as described in the agenda materials.

Motion was made by Lowman, seconded by Baloga, and all voting aye, to adopt a resolution adopting the Wellhead Protection Plan Amendment and Source Water Protection Plan. (R-2014-87)

3.11 2040 Met Council Transportation Policy Plan Comment Letter

Requested Action: Approve the 2040 Transportation Policy Plan comment letter and authorize the Mayor to sign the letter that will be sent to Met Council.

This item was held by Oleson who read a short portion of the Met Council 2040 Plan and asked for the City's status on it. He said it's tough to plan that far out into the future. He asked if there was already an ordinance in place or is this a call for the City to take some action.

Bernhardson said the City does have ordinances that address certain types of streets. He said the Alternative Transportation Plan is the primary reference here which is what the City adheres to plus there is probably a reference to it in the Comprehensive Plan. He said it's a work in progress.

Motion was made by Oleson, seconded by Lowman, and all voting aye, to approve the 2040 Met Council Transportation Policy Plan comment letter as drafted.

3.12 Additional Election Judges for the General Election - Approve

Requested Action: Approve the listed individuals as eligible to serve as election judges for the 2014 General Election.

Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve the list of election judges for the 2014 General Election.

3.13 Meeting Minutes City Council-Approval

Requested Action: Approve the July 28, 2014 City Council Study Meeting minutes as presented.

Motion was made by Lowman, seconded by Baloga, and all voting aye, to approve the July 28, 2014 Study Meeting minutes as presented.

4 PUBLIC COMMENT PERIOD

Speaker #1: Paul Slattery, Teamsters Local 120

He talked about a Labor Peace Agreement and what it would mean to the solid waste collection agreement the City Council is exploring. He said including Labor Peace in the Request for Proposal (RFP) process would prevent work stoppages in the collection of solid waste regardless of the circumstances for the lift of that RFP. He talked about why a work stoppage in the collection of trash throughout the city should be a concern for the City and urged the Council to include a Labor Peace Agreement as part of the RFP process.

Winstead explained the City is in the formation process and will be talking to all of the haulers.

When asked by Lowman if other cities have a Labor Peace Agreement incorporated into their garbage collection agreements, Slattery replied the City of Minneapolis uses it for half of their city.

Speaker #2: Sally Ness, 8127 Oakland Avenue South

Speaking about the Dar Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue, she made references to a video that came out about AFYFC having a restaurant on site. She said the director of AFYFC referred to is as a canteen and not a restaurant. She disagrees with City staff that the director didn't know the difference between a canteen and a restaurant. When asked by the Mayor if the restaurant was still in operation, Ness replied it is not. She claimed the video also talked about AFYFC having an "all-girl high school" within the building but then read some that that said AFYFC was not going to have an "all-girl high school." She said now AFYFC is hosting a university and is talking about offering graduate courses. She said there are additional businesses operating in the middle of her neighborhood. She said classes are held on Saturdays so there is traffic in and out of their neighborhood all weekend long. In addition, she said a financial institution is running out of the AFYFC building.

Winstead requested City staff look into the additional uses Ness claims are occurring in the building at 8201 Park Avenue.

Speaker #3: Dennis Porter, Former Parks, Arts & Recreation Commissioner

He spoke on behalf of many people in the audience who attended the meeting to show their support for leaving the Minnesota River Trail as it is. He said the trail is proposed to be a bituminous trail and he and the others oppose converting the trail to any type of paved trail and would prefer to see it remain in its current, natural state. He suggested the City commission a study of the trail to determine who uses it and how it's used in spite of the signs the Department of Natural Resources (DNR) has put up. He said a two-trail system is being considered. He commented this trail is in a flood plain, which should be considered before making it a bituminous trail. Due to the potential flooding of this trail, he believes the City will end up paying a lot of money to maintain it. He urged the Council to stop the proposed plans for the trail and study it further.

Winstead commented the Minnesota River Trail is not currently before the Council. He asked staff for a status update on this matter.

Bernhardson said the City has two studies going on: The Alternative Transportation Plan (ATP) along with the Minnesota River Valley Trail Plan overall. He said numerous meetings have taken place regarding this trail and that the DNR is looking to make a paved connection through the community to connect the trails to the east and to the west of Bloomington.

Bernhardson said most recently, the DNR is proposing a two-trail system. He understood Porter’s cautions and said the City will look to see who will be responsible for maintaining a hard trail if that moves forward. This will be part of all three things as they go forward.

Speaker #4: Dave Rickert, 2400 West 106th Street
He talked about his experience driving on West 106th Street during the rush hours. He said there haven’t been any back-ups since the City restriped 106th Street. As a cyclist, he said the road is safer with two lanes and a turn lane. He said he’s observed more cyclists using 106th Street since the restriping and believes the City made the right choice to restripe it.

Speaker #5: Cap O’Rourke, 5816 10th Avenue South
(Representing the vaping retailers of Minnesota)
As a representative of the two e-cigarette shops in Bloomington, he invited the Council to visit both shops. He said they are not allies of smoking so the Council should see how this new technology is working in Bloomington.

Winstead stated e-cigarettes will be discussed by the Council at an upcoming meeting.

Speaker #6: Vi Rozek, 8214 Park Avenue South
She reiterated what Ness said about the overuse of AFYFC. She listed companies she said are running out of 8201 Park Avenue South: Dakota Audio Visual Inc., a medical support service, a security service, and a fabrication service. She said there are even businesses running out of AFYFC’s parking lot: Coit is cleaning taxi cabs, cars and vans for the people of AFYFC. She said a locksmith is running a key making business on the weekends in the Smith Park parking lot for cab drivers as well as clothing is being sold off of racks at the end of the sidewalk that blocks people from entering Smith Park. She quoted a Channel 9 news reporter who said AFYFC is perhaps the largest mosque in the Twin Cities. She said the activity at this building has been awful and it’s increasing. She said the Council denied other developments in the city that were projected to increase traffic by 350 cars down a residential street because it would be detrimental to the neighborhood safety and well-being. She said her neighborhood feels abused by the amount of traffic that has been generated from the various uses at 8201 Park Avenue.

Winstead again requested staff investigate the potential businesses Rozek said are operating out of 8201 Park Avenue South.

Mayor Winstead closed the Public Comment Period at 7:41 p.m.

5 LICENSING DIVISION: PUBLIC HEARINGS None.

6 DEVELOPMENT BUSINESS: PUBLIC HEARINGS

6.1 Xcel Energy (agent Verizon); Variance to allow an accessory structure in a side yard in the IP Zoning District: 11000 Normandale Blvd. Requested Action: In Case 9077A-14, having been able to make the required findings, adopt a resolution approving a variance to allow an accessory building to be constructed within the side yard in the IP Zoning District, located at 11000 Normandale Boulevard for Xcel Energy (owner) and Crown Castle, Agent for Verizon Wireless (user), subject to the conditions listed in the staff report.

Dennis Fields, Planner presented the staff report on this application. His presentation was as follows:

- Location: Aerial photo
- Site Plan: Construct a 36-square foot, 10-foot high accessory building to house their wireless equipment. They want it located in the side yard which currently isn't permitted.
- Recommendation: Planning Commission and staff recommend approval.

Council discussed the location of this structure. It was stated the City's policy is to have wireless providers collocate their antennas on a monopole.

Motion was made by Carlson, seconded by Lowman, and all voting aye, to adopt a resolution approving a variance for Xcel Energy and Crown Castle, at 11000 Normandale Boulevard, subject to the conditions listed in the staff report. (R-2014-88)

No public testimony was received.

6.2 Roberta Laird (Jarvis Co.); Preliminary and Final Plat of Dwan Bluff; Overlook Dr. Resolution of Denial

Requested Action: Act on the resolution of denial for the Preliminary and Final Plat for DWAN BLUFF.

Motion was made by Winstead, seconded by Busse, to request a reconsideration of the resolution of denial for the Preliminary and Final Plat for DWAN ABLUFF. No vote was taken at this time.

Winstead explained the reason for his request that the resolution of denial be reconsidered is because the resolution puts forth criteria the Council used for denying the platting of Dwan Bluff to be outside the purview of the City Council. He said the criteria put forth in the resolution are not based on anything that can be substantiated which could lead the Council to further action down the road.

Busse said he wasn't on board with denying the platting because of safety or the traffic studies but believes it will definitely affect the welfare and makeup of the neighborhood. He said going from zero traffic to any kind of traffic will be injurious to the neighborhood. However, he said after reading the information from the City Attorney and the League of Minnesota Cities and others, he doesn't know if the Council can jeopardize putting the welfare of the general city of Bloomington at risk for this. Given what it means for the entire city and the risk it puts on the City, he said the Mayor's proposal has significant merit.

Carlson asked if subsequent action by the Council needs to be done at this meeting or at a future meeting.

Winstead explained any consideration by the Council of the motion to reconsider the resolution of denial had to be made at the next scheduled open Council meeting, which is tonight. He said the reconsideration could be discussed and dealt with tonight or at the next meeting.

Sandra Johnson, City Attorney said voting in favor of the reconsideration does not bind a Council member to a particular motion when it comes up for a subsequent vote. It just allows the reconsideration discussion to take place.

Winstead said if a majority of the Council vote in support of the reconsideration, it should be scheduled and should involve more public testimony because the hearing has been closed.

Oleson requested more clarification on what happens if the Council votes in favor on the Mayor's motion for reconsideration.

Johnson explained a majority vote by the Council for reconsider, puts the action back in front of the City Council. The debate picks up where it left off before. If there are other options, they can be considered. It's like a continuation of the last meeting but without the vote to direct staff to draft a resolution of denial.

Winstead said Oleson was asking if other configurations of the plat could be considered, which Winstead did not think could be the case.

Mark Bernhardson, City Manager said the first option is to adopt the resolution of denial; the second option is a motion to reconsider the resolution of denial that could lead the Council to either a motion to approve either tonight or at a subsequent meeting if the Council desires to take more testimony. He said Council could further refine the resolution of denial or ask for additional information. He said a portion of Oleson's concerns from last meeting related to the width and a connection for walking and biking if the through street were put through. He said if that's the Council's primary thrust, it wouldn't be a reason for a denial of the plat. If the vote is to reconsider the resolution of denial, it could be an issue to be explored before the plat would be brought back as a through-street plat. He said sidewalk width and street width could be items appropriate for some discussion. Connections beyond there for biking on the street and for sidewalks beyond that would have to be done either at City expense or done on the east side and subsequently when the street is reconstructed on the west side. He said supporting the reconsideration opens up the options for a through-street plat.

Oleson commented the process has been very frustrating.

Winstead explained what was before the Council was a plat approval. It involved the subdivision of a residential site into 13 single-family sites with a street connection going with it. It was code complying, platted the land, and changed the boundaries but it took on a life of its own. Instead, testimony from the public said the street going through the development was going to be detrimental. He said that's not what that hearing was for. He said the Council rejected something it was just supposed to affirm and legalize the platting of property. Instead, the Council took on this application like it was a Conditional Use Permit and it put the city overall in a perilous position. He said acting on a resolution of denial would bring forth action for which the Council would not have a defense.

Oleson said when he was on the Planning Commission their role was to apply the Code when they were instructed to do so and was told the City Council had more latitude in how it responded. He said he doesn't have the depth in platting. He asked if something can be replatted by Council action, why the Council can't have input into how the plat request happens. He said the Council has been advised they can't talk to the developer. He said there has been a lot of information on what has happened up to this point and it would have been nice had the Council been made aware of that. He said the Comprehensive Plan is supposed to be a long-term strategic plan for the City.

Winstead said the input the City would have as to how a parcel is platted or how a road is configured would be within the zoning. There is the Comp Plan and the zoning districts and things are zoned accordingly. Then there is the policy regarding the roads and the ordinances regarding the roads that go in and around the community in those specific zoning districts. Those are the things that Council can help guide what can and can't be done. He said Council can't do it on an individual piece by piece basis. He said there could be alterations on roads that go through. He said the Comprehensive Plan designates this area as an R-1 District, which is what was being proposed and platted, which included a typical residential street within the city of Bloomington, but people tried to turn it into a highway, which he doesn't believe that was a substantiated claim. He said everything was Code compliant. He told the Council if they want to go back, they'll have to work on zoning codes and street policies and put in provisions and ways in which the Council can do it. What's in there now doesn't address this.

Bernhardson said reconsideration would give the Council an opportunity to get further questions asked and further explore these items. He said the developer was given what the ordinances say by staff and as a result, the developer came through with a fully complying plat because he didn't want to ask for variances. Variances would be hard to substantiate. What's before the Council is a motion for reconsideration so Council can get further questions answered if so desired.

Carlson said he came tonight fully behind his original vote to deny the plat but has since read the denial resolution and it's not strong. He said the Council is charged with being responsible for the due process and equal protection. He indicated his willingness to support the reconsideration in order for the community to continue this conversation to find what the legally and factually sufficient basis for denial should be. He said the Council needs to make a stronger case for this.

Lowman said he met with Alvin and others to drive some problem spots and saw some different perspectives. He said the Council needs to protect the City by having a defensible position. He said it needs to be discussed further to determine a rationale for the denial. He said some reasonable evidence was submitted and it's worthy of further review.

Winstead said there might not be anything additional that can be provided. The case has been made and the testimony was given. Traffic studies were conducted and conclusions were stated. He said maybe the Council's role needs to be clarified but doesn't believe any new information will come forth. To clarify, he said a vote yes for the reconsideration will continue the action and an opening of the public hearing if so desired by the Council. He said the Council needs to consider the ramifications to the city as a whole if the resolution of denial were to move forward.

Carlson offered an amendment to the Mayor's motion to include a condition that the public hearing be reopened.

Winstead accepted the amendment and said the motion is to reconsider the resolution of denial and allow a reopening of the public hearing.

Bernhardson said the public hearing could be held on October 13, 2014, with action being taken by the November 3, 2014 meeting, which was agreeable to the seconder.

Lowman asked if a special meeting could be held after November 3 for this item.

Bernhardson said the Council will have to make a decision to either approve the resolution on October 13 or request another resolution of denial at the November 3rd meeting in order to be within the 120-day agency deadline.

Johnson said failure to act on this application by November 12, 2014, will result in automatic approval per State statute so a decision needs to be made by November 12.

Winstead said if no conclusion is reached on November 3, a special meeting could be held. It needs to be acted upon by November 12. This is state law and the City has to conform to it.

He called for a vote on the motion to reconsider the resolution of denial for the Preliminary and Final Plat for DWAN BLUFF conditioned on the reopening of the public hearing at the Regular Council meeting on October 13. Motion passed 5-2 (Abrams and Lowman opposing).

Winstead said the Council will be back to take some additional information on October 13 but for now the resolution of denial is in abeyance.

6.3 Lennar Multifamily Communities; 8001 33rd Ave.; Change of Condition

Requested Action: In Case 1934A-14, approve modifications of Conditions of Approval #13 and #14 in Case 2830G-14 for Lennar Multifamily Communities located at 8001 33rd Avenue South as stated in the staff report.

Dennis Fields, Planner presented the staff report on this application requesting a change in conditions. His presentation included the following:

- Surrounding Area: Aerial photo of South Loop Area
- Approved Bloomington Central Station (BCS) Planned Development: Hotel construction to begin end of this year.
- BCS Planned Development
- Site Plan: This is an approved site plan for the 420-unit, 6-story apartment complex with above-ground parking ramp.
- December 2nd Council Meeting: At that time, the applicant hadn't submitted an acoustical report for review.
- Council Discussion: A topic of discussion was the construction difference between this proposed development and Reflections.
- Existing Conditions: #13 and #14. Those were approved in 2013 as placeholders.
- Noise Modeling: Applicant hired an acoustical consultant.
- Figure 6 – Noise Exposure Noise Zones (A-D)
- Exterior and Interior Noise Levels
- Common Sound Levels:
- Proposed Conditions: #13 and #14. This requires a separate Sound Transmission Class (STC) rating of at least 36 dB for windows in bedrooms and an STC rating of at least 31 dB for exterior doors and windows within the living areas of the dwelling units. HVAC units must provide a noise reduction of 30 decibels. The second condition does not require testing after construction but rather an evaluation and an installation inspection during the construction process.
- Recommendation: Staff met with Metropolitan Airport Commission (MAC) representatives to review the mitigation efforts and MAC agreed that the overall mitigation proposed by Lennar and Veneklasen Associates will be successful as proposed. Staff recommends approval of the change in conditions as proposed.

Winstead said the conditions have been reworded as a practical way to address how to mitigate sounds. His concern was that noise is extremely sensitive in this area. A concern was that if neighbor A decided to have the windows open but neighbor B next door didn't want to open the windows, would the sound from the open windows in neighbor A's apartment transmit through the walls to neighbor B's apartment. He said City staff said the noise would not transmit through the walls.

Lee explained a meeting was held by MAC with the noise consultant John LoVerde, Veneklasen Associates, and City staff. He said MAC believes the noise mitigation proposed by Lennar is consistent with the noise mitigation they've done in existing homes around the Airport and will be successful. He complimented Lennar and Veneklasen on their noise mitigation work. He said what the Council does here will have precedent value for homes the Council will approve in the South Loop District in the future.

Presented #1: Peter Chmielewski, Senior Development Manager with Lennar Multifamily Communities, LLC (owner)
He said this is their final condition for approval. He said Lennar Multifamily Communities started developing Class A multi-family residential properties in 2011. He said they're a long-term hold owner, developer, and operator. He introduced the members of his team: Aaron Roseth, Elness Swenson Graham (ESG) Architects, McGough, Pre-development consultant and land seller, and Samantha Rollins, Acoustical Consultant from Veneklasen Associates.

Presenter #2: Aaron Roseth, ESG

He said they've been working on this development for 12 years but never lost their desire to build a community in Bloomington. He said it's a mixed-use development with safe, walkable areas. He presented the following:

- Glazing: Social spaces on the interior and the exterior are meaningful to the way people want to live today.
- First Phase located in the northeast side of the Bloomington Central Station (BCS) development
- Exterior social spaces are very important
- Schematic Renderings: They will have balconies -- a big point for renters even if they don't use it.

Presenter #3: Samantha Rollins, Veneklasen (Acoustical Presentation)

Their study included all of the environmental noise sources but concentrated on aircraft noise, which affects the design of the exterior facade.

- Acoustic Terms: Decibels, dBA, LDN or DNL, and L10 and L50
- 40 dBA is the criteria they focused on.
- 2030 Regional Transportation Policy Plan and MPCA Standards. This project falls within the NAC-2 zone. The 41 dBA inside was the criteria that was used primarily to design this building, as it's the most stringent criteria for the entire project site.
- To determine exterior noise: MAC data provided by the FAA website.
- Aerial with sound impacts: west side will have the loudest noise.
- Table 2 – Existing and Future Average Exterior Noise Levels by Location
- Zones of the Building
- Nighttime Aircraft Event Distribution: Aircraft noise drops substantially during the night.
- Table 5 – Calculated Future Interior and Exterior LDN Noise Levels
- Table 6

Presenter #4: Peter Chmielewski: "Create a dynamic, active/interactive, and open residential environment."

- Acoustical Upgrades: This building is highly engineered acoustically beyond what would normally be done in this type of development. They took the worst case scenario and engineered their building to the highest quality.
- BCS: Patio Door Design Requirements
- BCS Residential – Acoustical Condition: Table showing manufacturer, glass, etc.
- Change of Condition: Lennar is a long-term developer/owner. They want to get this right. This sets precedence in engineering to assure the acoustical elements are right.
- Questions and Answers

Oleson said he was impressed Lennar is in it for the long haul. He mentioned he and Lowman represent the Council on the Noise Oversight Committee (NOC). He said the noise profiles shift over time. Planes take off and land in different patterns. He said it sounds like Lennar is doing more than it needs to. He asked about having suppliers to retrofit the building in the future.

Chmielewski said ESG not only looked at the glazing but at all of the related areas of construction. He said they've been working directly with the manufactures.

Abrams asked when evaluating the mock up to ensure that 10% of the units hit the mark, how is it decided which 10% of the windows will get tested.

Chmielewski said they will take 10% at the beginning to catch things that need to be changed. The 10% will be in the very beginning of the building. They'll try to mock up every condition.

Lowman inquired about the 21 days that were mentioned in the slides.

Rollins replied it was 21 days in October 2013. There were a number of nighttime events but said the daytime noise is key.

Lowman also inquired about the projections 30 years out.

Rollins said the aircraft noise came from Minneapolis-St. Paul International Airport (MSP). She reported the Airport remained the same to 2030 but there was a 2% increase in rail per year.

Baloga commended Chmielewski for the work they've done. He said you've achieved the essence of what Council had hoped would be achieved. Regarding the chart of the noise generators, he asked how multiple sound generators affect the sound levels.

Rollins said the sound levels are all treated in aggregate. Every noise source was treated individually. She said the numbers are the summation of all three different noise sources plus the increase for the future for the applicable noise sources.

At this time, members of the public were invited to speak.

Speaker #1: Matt Nelson, Reflections Resident

He said there are 400 units in Reflections and the only place to get out of their condos is on 33rd Avenue and asked what Council is doing with the increased traffic along 33rd Avenue and on Old Shakopee Road. He said he waited five minutes this morning to get out of his condo before going down 33rd Avenue to American Boulevard. He's been there since April and said people can't believe how quiet it is. They barely hear the airplanes as they go over the building. He asked the Council to look at the traffic to see if a stop sign or a signal will be needed outside their condos. He said he takes the light rail downtown.

Winstead said the Council is not considering traffic tonight.

Bernhardson said what you are experiencing now are restrictions that will provide the needed traffic opportunities to improve the additional traffic that will incur there. He said 33rd Avenue is now being constructed to the north. Cars can't come in from the south because 30th Avenue is all tied up. He said there will be access coming out to the east between the two buildings. He said it will help when all of these streets are open.

Nelson asked about the future parking from Health Partners.

Bernhardson said they will eventually need to build structured parking there.

Winstead commented this is going to be a very dynamic area in the future. It will ultimately end up with structured parking for the site in general. Let's make sure the ins and outs and the traffic patterns all work going forward as that area is developed.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to approved the modifications of Conditions of Approval #13 and #14 in Case 2830G-14, for Lennar Multifamily, LLC at 8001 33rd Avenue South as presented and stated in the staff report.

6.4 John Heutmaker; 10608 Alabama Circle; Variance to the Prevailing front yard setback

Requested Action: In Case 10935A-14, the Hearing Examiner, Planning Commission and staff recommend adopting a resolution approving a variance to reduce the required prevailing front yard setback from 35 feet to 30 feet for a living space addition at 10608 Alabama Circle subject to the conditions listed in the staff report.

Glen Markegard, Planning Manager presented the staff report. His presentation consisted of the following slides:

- Aerial Photo
- Proposal: Expansion of an existing dwelling. As this was developed before 1974, the applicant is requesting a variance to reduce the prevailing front yard setback from 35 feet to 30 feet. It's a wide lot; not a deep lot.
- Staff recommendation: Staff and Hearing Examiner recommend approval.

Motion was made by Busse, seconded by Baloga, to adopt a resolution approving a variance to reduce the required prevailing front yard setback from 35 feet to 30 feet for a living space addition at 10608 Alabama Circle, Case 10935A-14, subject to the conditions listed in the staff report. Motion passed 6-0 (Abrams temporarily absent). (R-2014-89)

No public testimony was received.

- 7 **TRANSPORTATION & UTILITY IMPROVEMENTS: PUBLIC HEARINGS** None.
- 8 **ORDINANCES: PUBLIC HEARINGS**
- 8.1 **Vacation of Public Drainage, Utility, Sidewalk, and Bikeway Easements located at 8001 33rd Avenue South** Requested Action: Adopt an ordinance approving the vacation of drainage, utility, sidewalk, and bikeway easements located at 8001 33rd Avenue South.
- Motion was made by Busse, seconded by Oleson, to adopt an ordinance approving the vacation of easements as described above at 8001 33rd Avenue South for McGough Development. Motion passed 6-0 (Abrams temporarily absent). (O-2014-12)
- No public testimony was received.
- 8.2 **Cemetery Ordinance Amendments** Requested Action: Adopt the amended cemetery ordinance with an effective date of 01/15/2015, and adopt a resolution authorizing summary publication of said ordinance.
- Janet Lewis, City Clerk presented the staff report on the proposed amendments to the cemetery ordinance. Her presentation was as follows:
- Strategic Business Plan for the City Cemetery
 - Currently 300 burial plots left for purchase. Cemetery will only be viable for 7 more years.
 - Main Goals of the Cemetery Strategic Business Plan: Make the cemetery a self-supporting entity. Looking to expand the cemetery over time to keep it viable for 25 years with voluntary acquisitions.
 - Review Next Steps for the Cemetery Strategic Bus. Plan: Looking to demolish 10316 Lyndale recently purchased.
 - Review Ordinance Amendments: Budget Modeling and Lot/Niche Transfers, Interment Options, Eligibility & Fees.
 - Regarding Eligibility: Open to anyone to purchase a lot or a niche or to be interred with two separate fee categories. Council directed the list be expanded to include grandparents, parents, and grandchildren and at a lower rate. New fee schedule will be introduced in November as part of the 2015 Fee Schedule. The cemetery will be self-sustaining through user fees. Ordinance date will be January 1, 2015, to correlate with the fee increase.
 - Aerial Showing Acreage: Yellow area-proposed columbarium and a turnaround.
 - Cemetery Historical Recognition: The Bloomington Historical Society (BHS) nominated a portion of the Bloomington Cemetery (outlined in red) to be on the National Register of Historic Places. The State Review Board approved it so the application has been forwarded to the National Park Service for consideration.
 - Cemetery Ordinance and Summary Publication Resolution
- Abrams said the ordinance strongly reflects this Council's direction to staff.
- Speaker #1: Larry Grainger, President of the Bloomington Historical Society He said the Bloomington Cemetery has been more than just a piece of property and more than just an old cemetery in the town. In the early stages, he said it was the only municipal entity in the town. The first civil war monument in Minnesota is located in the cemetery.

Granger said significant people from early Bloomington were buried around where the original church was located within those 2.7 acres. He said that was given to Reverend Gideon Pond by Martin McCloud. He said they came together in this community not only to build a church but a cemetery. In 1890, Bloomington was starting to become a full community. He said the cemetery itself is more than a cemetery. It's a commemoration and an honorarium of those who lived and shaped Bloomington. He said cemeteries are used to do more. On November 1, Old Saints day, people would go to the cemetery. It became a place for people to bond to the community. The cemetery was identified in 1964 as a possible historic site. It's hard to get free standing cemeteries on the historic register. This would be the fourth one in the state. Now it will be reviewed by the National Park Service. He said once it's approved, BHS like to work with the City and some sponsors to put up signs at each entrance to the Cemetery. He said bonding is important in a cemetery. This will be the City's third property on the National Historic Register (Gideon Pond House, Old Cedar Avenue Bridge and now the cemetery.)

Winstead thanked Grainger for what the BHS does. He said the BHS tent was busy as Heritage Days. He mentioned losing to Bill Chadwick in a corn competition during that event.

Motion was made by Lowman, seconded by Baloga, and all voting aye, to adopt an amended cemetery ordinance with an effective date of 01/15/2015. (O-2014-13.)

Motion was made by Abrams, seconded by Baloga, and all voting aye, to adopt a resolution directing summary publication of Ordinance No. O-2014-13. (R-2014-90)

9 OTHER: PUBLIC HEARINGS

9.1 Hearing: Public Nuisance Abatement Assessments

Requested Action: Adopt resolution confirming assessment of Public Nuisance Abatements.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution confirming assessment of Public Nuisance Abatements. (R-20140-91.)

No public testimony was received.

9.1.1 Public Health Nuisance Abatement Assessment 87XX 11th Ave S.

Requested Action: Adopt a resolution certifying the assessment for the property located at 8711-11th Avenue South (PID # 11 027 24 21 0023).

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution certifying the Public Health Abatement Assessment described above. (R-2014-92)

No public testimony was received.

9.1.2 Public Health Nuisance Abatement Assessment 82XX York Ave. S.

Requested Action: Adopt a resolution certifying the assessment for the property located at 8272 York Avenue South (PID # 05 027 24 31 0061).

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution certifying the Public Health Abatement Assessment as described above. (R-2014-93)

No public testimony was received.

9.2 Delinquent Tree Removal Assessments

Requested Action: Adopt a resolution confirming assessment of tree removal costs.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution certifying the Delinquent Tree Removal Assessments. (R-2014-94)

No public testimony was received.

9.3 Delinquent Weed/Brush Removal Assessments

Requested Action: Adopt a resolution confirming assessment of delinquent weed/brush removal costs.

Motion was made by Abrams, seconded by Busse, and all voting aye, to adopt a resolution certifying the Delinquent Weed/Brush Removal Assessment. (R-2014-95)

No public testimony was received.

9.4 Civil Fines for Property-Related Violation Assessments

Requested Action: Adopt a resolution confirming Civil Fine assessments.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution certifying the Civil Fines for Property-Related Violation assessments. (R-2014-96)

No public testimony was received.

9.5 Delinquent Water, Sewer, Storm Sewer, and Solid Waste (Recycling) Assessments

Requested Action: Adopt resolution confirming delinquent water, sewer, storm water drainage, and recycling utility assessments.

Motion was made by Abrams, seconded by Oleson, and all voting aye, to adopt a resolution certifying the Delinquent Water, Sewer, Storm Sewer, and Solid Waste (Recycling) assessments. (R-2014-97)

Oleson added unpaid assessments are added to the tax statements by Hennepin County and are levied against the home.

No public testimony was received.

10 ORGANIZATIONAL BUSINESS

10.1 City Council Policy & Issue Update

The City Manager reminded Council of the following dates: October 1 Joint Council/Port Authority meeting at 5:30 p.m., October 13 Regular meeting at 7 p.m., October 21 is a study meeting, and no Council meeting on October 27 per Council’s earlier action.

Abrams summarized the Minnesota Health Department’s State Community Health Conference she attended and recognized two members of Bloomington’s Public Health Division who made some good presentations. She said they were knowledgeable and well spoken.

Busse commented on the training exercise that occurred at the Mall of America on Sunday, September 21 involving Bloomington Police and Fire personnel. He said it was very well done and thanked Police Chief Potts and Fire Chief Ulie Seal for their outstanding work.

Oleson talked about the Rail Volution event he attended as well as the event that was held at the Golden Living facility on Nicollet Avenue.

Mayor Winstead commented on the Heritage Days event that occurred over the past weekend. He gave kudos to the event organizers.

10.2 2015 General Fund & Property Tax Levy Resolutions

Requested Action: Adopt resolution adopting the 2015 General Fund Budget and 2015 Preliminary Tax Levy.

Lori Economy, Chief Financial Officer presented the 2015 General Fund and Tax Levy. Her presentation included the following slides:

- 2015 Budget Discussion Items
- Strategic Community Vision
- Organizational Mission
- Goals
- Citizen Survey Supports City Vision:
- Citizen Survey Results
- Quality of Life in Bloomington
- 2015 Influencing Factors
- State of MN – Government Property Tax System
- Value Assessment Timeline
- Factors Impacting Property Taxes
- Property Segment Market Value Changes
- Historical View: Total Gross City Tax Capacity Comparison by Property Segments
- 2014 Assessment Results – Market Value for Taxes Payable in 2015
- MN Homestead Credit Refund and Renters' Property Tax Refund
- Long Term City Trends
- City-wide 2014 Revenues
- City-wide 2014 Expenditures
- 2015 Preliminary Tax Levy Categories
- Financial Sustainability
- Levy History Comparison
- Services – 2015 at 4.00% (Tier I, II and III services)
- Tier I – 2015 Rate
- Tier II – 2015 Rate
- Tier III – 2015 Rate
- Proposed 2015 General Fund Revenues: \$63,848,334
- Proposed 2015 General Fund Expenditures: \$63,848,334
- Levy and City Monthly Cost
- Comparison of Monthly Cost of Services: \$72.18/month at 4% increase
- Dividing up the Dollar 2014
- 2014 Commercial Dollar
- Median Monthly Cost of City Services
- Important Dates
- Recommendations: Preliminary \$49,971,775; a 4% increase
- Proposed General Fund: \$63,848,334

Winstead said the City Council discussed this during their work sessions and they are looking at staff to see if the preliminary budget and tax levy can be reduced by December's final adoption date. He said the Council wants lots of things, but it might be hard to move the proposed budget.

Carlson said he's comfortable with the 2015 preliminary budget and tax levy.

Oleson commented there have been 4-5 study sessions on the budget and Council is working hard to keep taxes down.

Abrams said this budget leaves a lot of good opportunities on the table -- a lot of great ideas will need further work. She said there are a lot of excellent things on the horizon so Council need to figure out how they will get done.

Motion was made by Carlson, seconded by Lowman, and all voting aye, to adopt a resolution adopting the 2015 Preliminary Property Tax Levy at 4%. (R-2014-98)

Motion was made by Carlson, seconded by Lowman, and all voting aye, to adopt a resolution adopting the 2015 Preliminary General Fund Budget. (R-2014-99)

No public testimony was received.

10.3 2015 Internal Service Fund Budgets Resolution Adopting

Requested Action: Adopt a resolution adopting the 2015-2016 Internal Service Fund budgets.

Cindy Rollins, Budget Manager presented the Internal Service Fund budgets. She said the recommendation is to approve the five 2015 budgets, replacement schedules, and the conceptual 2016 budget.

Motion was made by Abrams, seconded by Busse, and all voting aye, to adopt a resolution adopting the 2015 Internal Service Funds budget as presented. (R-2014-100)

No public testimony was received.

10.4 Parks, Arts & Recreation Youth Commission Appointment

Requested Action: Appoint a youth to a one-year term on the Parks, Arts & Recreation Commission.

Motion was made by Busse, seconded by Abrams, and all voting aye, to reappoint Ben Murphy to another one-year term on the Parks, Arts & Recreation Commission expiring August 31, 2015.

10.5 Human Rights Youth Commission Appointment

Requested Action: Appoint two youth to two-year terms on the Human Rights Commission.

Motion was made by Busse, seconded by Abrams, and all voting aye, to reappoint Whitney Batterson to a one-year youth term on the Human Rights Commission expiring August 31, 2015.

Motion was made by Busse, seconded by Carlson, and all voting aye, to appoint Daniela Konkell to a one-year youth term on the Human Rights Commission expiring August 31, 2015.

11 ADJOURN

Mayor Winstead adjourned the meeting at 10:16 p.m.

Barbara Clawson
Council Secretary