

**City of West St. Paul  
Open Council Work Session Minutes  
January 14, 2019**

**1. Roll Call**

Mayor Napier called the meeting to order at 5:00 p.m.

Present: Mayor Dave Napier  
Councilmembers Wendy Berry, Anthony Fernandez, John Justen,  
Bob Pace and Dick Vitelli

Absent: None

Also Present: City Manager Ryan Schroeder  
City Attorney Kori Land  
Police Chief Manila Shaver  
Fire Chief Mike Pott  
Finance Director Char Stark  
Community Development Director Jim Hartshorn  
City Clerk Shirley Buecksler

**2. Review and Approve the OCWS Agenda**

Council agreed to move Item E, Discussion on Future Policy Terms, to follow Item A while waiting for representatives from West St. Paul Days to arrive to the meeting. Council approved the OCWS agenda, as amended.

**3. Review the Regular Meeting Consent Agenda**

Councilmember Fernandez requested that Item 9L, Establishing Parking Restrictions on Charlton Street – Wentworth Avenue to Thompson Avenue, be moved for discussion.

Council amended the Consent Agenda and moved Item 9L to New Business as Item 11B. Council also added to New Business Item 11C, Appointment to Fill Ward 3 Council Vacancy and approved the Consent Agenda, as amended.

**4. Agenda Item(s)**

**A. Appointment to Fill Ward 3 Council Vacancy**

Mayor Napier thanked the Subcommittee members, Councilmembers Berry, Justen and Vitelli, for their work in returning one nomination for the Ward 3 Council vacancy.

Councilmember Vitelli said that both candidates, Lisa Eng-Sarne and Maria Franzmeier, interviewed well and that the subcommittee had a lengthy discussion before the decision was made.

## **E. Update on Future Policy Topics**

### 1) Roles and Responsibilities/Strategic Planning

Council discussed scheduling a two-hour training opportunity facilitated by LMCIT (League of Minnesota Cities Insurance Trust), as well as a date for the strategic planning meeting. Council agreed to schedule the strategic planning meeting for Saturday, March 2, 2019 with the roles and responsibilities training during the first two hours.

Schroeder said that Jim Miller will be the facilitator. Schroeder said items will be forwarded electronically to Council a week or two in advance of the meeting.

### 2) Neighborhood Meetings

Due, in part, to significant schedule conflicts in March, Schroeder said we are attempting to schedule Neighborhood meetings for each ward during the second half of February. We are in the process of locking down dates and locations. The format is intended to be lighter on presentations and heavier on Q&A and audience participation than in the past two years.

Council agreed to schedule the neighborhood meetings as follows:

- Ward 2  
February 21, 2019  
6:00 p.m. – 8:00 p.m.  
St. Stephen's Lutheran Church  
1575 Charlton Street
- Ward 1  
February 26, 2019  
6:00 p.m. – 8:00 p.m.  
Dakota Lodge  
1200 Stassen Lane
- Ward 3  
February 27, 2019  
6:00 p.m. – 8:00 p.m.  
St. Stephen's Lutheran Church  
1575 Charlton Street

### 3) Tobacco 21

During mid-2018, Council deliberated Tobacco 21 restrictions. Ultimately, the past Council determined that tobacco or vaping should best be regulated statewide and that individual members expressed an intent to support those broader efforts. Should 2019 members of Council vary from that position, Schroeder asked if they would like this topic brought back to a future OCWS.

Councilmember Pace said he thinks the State may be making some changes and suggested waiting on this to see whether or not the State takes action. Councilmember Vitelli agreed.

Councilmember Fernandez said that Senator Matt Klein is sponsoring the State bill and that surrounding communities are also doing it.

Schroeder said it hasn't been introduced at the Legislature as of last week.

Councilmember Berry asked if that was the reason this item has been on hold. Mayor Napier said there was hesitancy to put effort into it at that time. He said it was difficult because it puts law enforcement in a tough situation.

Councilmember Fernandez said that Council didn't want any penalties included.

Mayor Napier said it adds another use to our resources and should be handled at the State level.

Councilmember Justen asked if we will get any pushback from Tobacco 21. Mayor Napier said it comes down to what the Council wants to do for the community. He also said we need to think about the outcome and if we want to look like we are doing our part or if it will legitimately make an impact on our community.

Mayor Napier said if we are not enforcing it, then what is the reason for doing it in the first place. He suggested that energy be put into lobbying it at the State level. We need to decide what to do moving forward.

Councilmember Fernandez said his hesitation on Tobacco 21 is the enforcement issue. He also questioned if legalizing marijuana will be set at 18 years old or 21 years old. Attorney Land said most states is 21.

Councilmember Pace said we can change our mind later if the State doesn't do anything.

Councilmember Vitelli supports waiting to see what the Legislature does.

Mayor Napier said he will support whatever the Council decides.

Councilmember Justen supports waiting for the State but if that fails or doesn't go through, he would like to see it brought back to Council quickly.

Council agreed to put Tobacco 21 on hold.

#### 4. Franchise Ordinance

In the 2019 budget, Schroeder said we projected \$150,000 in revenue from a gas franchise fee. We have been negotiating a new franchise ordinance with Xcel for a period of time (current franchise is expired) without success. In 2018, Council implemented an increase in the electric franchise gross sales fee. Xcel has submitted that they would be in agreement with the gas franchise ordinance and resulting fee, contingent upon the City terminating the current electric franchise ordinance for one that more closely resembles their preferred template ordinance with a resulting change from the gross sales fee to a franchise fee. Schroeder added that the electric franchise is through 2023 or 2024 and said that we do not want to open an existing agreement and also that the current agreement provides the City with more flexibility. Schroeder asked if the Council has any concerns.

Councilmember Pace asked if other Cities have a similar set-up. Schroeder said no, that our electric franchise ordinance is substantially different from the Xcel Energy template. He said most Cities are on the Xcel template. Schroeder said other Cities have a franchise fee but West St. Paul is an electric tax.

Councilmember Pace asked if the numbers work out the same. Schroeder said they do today but we do not know about tomorrow. He said if we want to change the electric fee tomorrow, we could just do that. Schroeder said our current fee is 6.2% and the likelihood that you're going to want to increase that is great. With a franchise ordinance, Schroeder said it could not be changed similarly.

Councilmember Fernandez said it may be beneficial to bring in Jake Sedlacek or a representative from Xcel. City Attorney Land said negotiations were over 20 years ago and that the City is unique in having the ability to have this tax. She said Mr. Sedlacek would like to see it go away. Schroeder agreed and said that no one else has this.

Councilmember Justen questioned if we would get the same thing but lose that aspect of the negotiations. Schroeder said we would get to the same amount for 2019.

Councilmember Justen asked if Xcel has the power to force us into this spot. Schroeder said that Xcel knows we are going to be \$150,000 short if we do not do something.

Schroeder said that we have not wanted to negotiate away our existing positive ordinance without Council's understanding.

Councilmember Pace asked for Staff's recommendation. Schroeder said Council could take the position to find \$150,000 elsewhere and keep our current electric ordinance, or continue to fight with Xcel, or negotiate their best deal. If Council is comfortable in terminating the electric earlier than we have to, Schroeder said that would make it a lot simpler to negotiate the gas franchise.

Councilmember Pace asked if it could be a negative tool for the gas side. Schroeder said yes.

Councilmember Fernandez said he thinks it would be worthwhile to have a representative from Xcel come and explain their side.

Mayor Napier asked if that would weaken our position. Schroeder said no.

Council agreed to ask Mr. Sedlacek to come and discuss at a future OCWS.

#### 5. Committee/Commission Expectations

During 2018, Schroeder said that Council adopted a volunteer committee and commission expectations document and requested that persons on these volunteer boards affirm their agreement with these expectations. Volunteers suggested hesitancy with the premise along with disagreement with the affirmation requirement. With the input received, Schroeder said it is suggested that a reasonable alternative would be for volunteers to acknowledge receipt of the expectations. He said we would, additionally, intend to resolve a few other wording concerns of which we are aware and bring the document back to Council for consideration.

Councilmember Justen said there are two specific points – one is the expectation that there may be a large group of emotional citizens, that the commissioners are required to notify us. The other is the language about not criticizing the council. He said he has heard that these are sticking points. He said he has received push back from both Park & Recreation and Planning Commissioners.

Councilmember Pace said the Environmental Committee has had extensive conversations. He thinks a lot of this stems from being a team. He said the Council upholds an oath and that even a volunteer on a committee should hold themselves to a certain standard. He said they are supposed to work with the Council and other commissions and if they are unwilling to do it that way, then they shouldn't be on the commission. Councilmember Pace said that's why the document was put together and added that there needs to be a level of respect.

Councilmember Fernandez said the document came out of trying to add more professionalism to hold everyone accountable and respectable. He said it is bad for business, otherwise.

Mayor Napier said if you're on a team and there is an issue, you want to be part of the solution, not part of the problem. He said it should be done with the idea that we are all part of one team. Mayor Napier said a Commissioner should go to someone who can fix the problem, such as Staff. He said he feels very strongly that we need to develop a process that allows the opportunity to solve the problem and that we need to decide what is expected of someone appointed to a commission. Mayor Napier suggested holding off on this until we get it figured out. He said there must be a level of expectation for anyone on our team, all the way down to our volunteers. He said it doesn't need to be stringent and signed, but if someone is going to come and help us and do what we want to do for our city, then there has to be a level of expectations.

Councilmember Justen said he is only talking about selective editing and agreed that it is important to have a document on expectations. Mayor Napier directed Staff to wordsmith the document and soften it up a bit. Councilmember Vitelli suggested that the City Attorney and City Manager edit the wording and bring it back to Council. Mayor Napier would like to have everyone comment on it.

Councilmember Berry said this document should be given to new Commissioners when they come in, not when they've been on the committee for several years. She said there should be something but not so detailed.

Councilmember Pace agreed.

Councilmember Justen said specific answers may be found by reaching out to some of the Commissioners.

City Attorney Land said if there is an expectation that there will be a large crowd at a meeting, the Committee needs to contact the staff liaison so preparations can be made.

Mayor Napier thanked everyone for their input on this discussion.

## **B. West St. Paul Days and Open House Events for 2019**

The City Clerk, along with Jen Baltes and Dave Wenda of Celebrate West St. Paul Days, presented an idea to Council of combining the City's annual Open House with the West St. Paul Days event in May. The Open House is scheduled for May 16 and West St. Paul Days May 18, 2019. West St. Paul Days is held at Harmon Park, and they also rent space inside Heritage Middle School, the soccer field and the school parking lot.

Over the past year, the Open House Committee has met to discuss several possibilities and suggestions on how we can increase attendance at the event and make it desirable for all members of our community to come and enjoy. Some suggestions included bringing in food trucks for a variety of food choices, moving the event to a different

location than City Hall, specifically from the Fire and Police bays, as well as highlighting different areas of West St. Paul by taking the event to a different park within the city each year. At the same time, Ms. Baltes and Mr. Wenda have been thinking over the past couple of years that it would make sense to combine our events and create one large event to, hopefully, increase attendance for them, as well. A meeting between Committee Chair Buecksler and Ms. Baltes earlier this month brought excitement over what we hope to accomplish together for our community. The more we talked, the more we realized we are doing the same thing in the same week.

By combining these two events into one, Staff time for Police and Fire will be decreased. Currently, Police and Fire attend and provide demonstrations at both events during the same week.

Ms. Baltes said there is always something changing with their event each year, and this year the parade route will need to change, which will come back to Council at a future meeting for discussion. She said when Harmon Park was created, they realized the opportunity to make it a highlight of the community. West St. Paul Days has music, food trucks, fireworks, City vehicles, vendors and more. In 2018, Ms. Baltes said they opened the doors to 501c3's, government entities, and the League of Women Voters also came with a voter drive. If a vendor is selling product, they pay \$50 to register their booth. Charity and non-profit organizations can join for free. She would like all businesses, churches and groups in the city to join and set up a booth. Buecksler stated that the City's event was only open to non-profit and charitable organizations in the past. Ms. Baltes added that one suggestion was to talk to the retail businesses that set up a booth and see if they would be interested in having a job fair at this event.

Ms. Baltes said this is a huge opportunity to take what we each have and combine them into one. She said there are some safety concerns about blocking off some of the Fire Department demonstrations. She said the plan is to put them on the ballfield and block it off there. She said Harmon Park is a good opportunity to address these liability concerns.

Councilmember Fernandez said that, at first, he thought the City was moving in on the West St. Paul Days event but now sees that Ms. Baltes is excited about this opportunity. He said he hears from a lot of people that they want the parade back on Robert Street. Mr. Wenda said that their insurance won't allow them to have a parade on a split street with a median, along with crowd control. Ms. Baltes said they would have to fence off the median to keep little kids from running to the floats.

Councilmember Fernandez asked if we will continue to offer something for free for attendees because it brings people to the event. Buecksler said the only issue is offering a product for free that a food truck is trying to sell. She said food trucks may not come to the event for this reason. Ms. Baltes said that both Jimmy John's and Qdoba offered samples last year and it made no difference for the food trucks that

were there. However, Ms. Baltes said we can't offer free popcorn because the Candyland truck will be there. She said we can still give away free root beer floats.

Councilmember Pace said he thinks food trucks is a great idea that will attract more people to come. He asked Chief Shaver if his department is okay with moving to Harmon Park on Saturday. Chief Shaver said he has no issues. Councilmember Pace said he thinks it's a great idea.

Mr. Wenda said the first time Candyland used their food truck was at a West St. Paul Days event and they ran out of product so quickly that they had to go back for more.

Councilmember Vitelli asked about the date of the event. Ms. Baltes said it is only scheduled for one day, on May 18. She said if the event is as successful as they think it can be that future events could be expanded with more demonstrations, musical acts and sponsorship.

Councilmember Vitelli commented that, more times than not, the event has been cold and rainy and questioned why it is scheduled so early in the year. Ms. Baltes said the last two years have actually been too hot. She said the reason they have their event so early in the year is because West St. Paul Days is the first festival of the year in the metro area and they are proud of that. She said there are programs in the metro area that plan around coming to West St. Paul Days and, in fact, that's how they got engagement from the Winter Carnival and the Aquatennial. Mr. Wenda added that, with no other events scheduled that early, they get more people to come to their event and more floats, as well.

Council discussed parade options and Ms. Baltes said there are two options that they will need to discuss with Project Engineer Darin Rezac.

Councilmember Justen said he supports offering something free to draw people to the event. He said it's important to have something for those who cannot afford the food trucks. Ms. Baltes said St. Matt's will be at the event again this year with burgers, brats and popcorn. She said South Robert Street Business Association will also be here with a big booth and free toys.

Buecksler said during some community outreach meetings that were held in 2018, Staff was looking at ways to create more diversity than just offering a free hot dog at the Open House but realized we couldn't do very much on a minimal budget. Staff started looking at food trucks for the event as the answer.

Councilmember Berry said food trucks are great but it's important to have people come. She agreed that we should offer a variety of foods.

Mr. Wenda said they will work on a plan for where the food trucks, private businesses, City Staff, demonstrations and others will be set up at the event.

Mayor Napier said there is a senior population that love coming to the event at City Hall but may not come to Harmon Park. He said we need to be ready to hear from them. Councilmember Vitelli said it may help to have tables and chairs to provide some shade. Ms. Baltes said she is going to talk with Metro Mobility about having a shuttle from the Heritage Middle School parking lot to Harmon Park.

Mayor Napier said it's great that the City is partnering with West St. Paul Days and pooling resources. He added that it also keeps Staff from putting a lot of time and effort into two events in one week.

Ms. Baltes said she appreciates the partnership because she lost half of her volunteer staff due to the Winter Carnival this year.

Mr. Wenda added that they could get some heaters to keep people warm if the weather is going to be cold. Mayor Napier also suggested that they include handicap parking. Ms. Baltes said they are working through the logistics.

Council agreed for Staff to move forward with combining the City's Open House and West St. Paul Days on Saturday, May 18, 2019.

Mayor Napier thanked Jen Baltes and Dave Wenda for coming to the meeting.

### **C. Designating Polling Locations for Municipal Elections**

With the passing of ISD 197's referendum in May of 2018, Buecksler said that schools will be under construction over the next several years. Therefore, the school district has asked all Cities with polling sites in their schools to look for a new location to hold elections. It should also be noted that, for security reasons, ISD 197 would prefer this be a permanent move.

This means we need to look for a new location for Ward 2 Precinct 1, which has been at Heritage Middle School. This is West St. Paul's largest precinct with 2,669 registered voters. The school district has an election this November, so we need a Council resolution designating polling locations including a change from Heritage.

Within the precinct boundaries, Buecksler said there were three choices that she and Andy Lokken of Dakota County Elections considered and visited two of those. One more location is being considered, though it is about three quarters of a mile outside the precinct. Minnesota Statute provides that the precinct may be up to one mile outside the precinct.

The top two choices were Dakota Lodge at Thompson Park and Salem Lutheran Church. Buecksler said the community room at Salem Lutheran Church is a great size but there are a couple of things to consider. To get to the community room, voters would need to go down four steps or use an elevator. In discussions with the Head Judge from this precinct, the Head Judge told Buecksler that this was the main reason

the precinct was moved to Heritage Middle School about five years ago. Access to the elevator on the entrance level is immediately to the right of the entrance door. It could be expected that people trying to get on or off the elevator would also be in the same space as those coming in and out of the entrance door, which could cause crowding problems. The space coming off the elevator on the lower level is also tight.

Buecksler said that Dakota Lodge seemed to be the best choice because of the size of the building, parking and having no stairs to deal with. She said it is also the location for the senior activity center, so it appears to have no issues with accessibility. Buecksler said she is looking to the Council for direction.

Councilmember Pace commented on the great research that was done to find a new location and said he would support Dakota Lodge. He asked how voters would be notified of the new location. Buecksler said it would be posted on the City's website, published in the newspaper, as well as notification by mail to every voter in the precinct, all of which is required by Minnesota Statute. Councilmember Pace also suggested that it be included in the City's quarterly newsletter.

Councilmember Justen said his concern is about public transit to the precinct. He said that Heritage Middle School is currently on public transit but is concerned that voters would need transportation to get to Dakota Lodge. He said he doesn't know if there is a solution if none of our precincts are on a bus route. Schroeder said with the increase in popularity for absentee voting, that this minimizes the transportation concerns but it doesn't eliminate it.

Councilmember Vitelli said he does not support Dakota Lodge for Ward 2 because it is outside the ward but that he would understand if there is nowhere else to go.

Buecksler said the City has the option of trying a new location for 2019 but if we need to switch again for 2020 elections, it would be even more confusing for voters.

Councilmember Fernandez asked if both precincts could be combined and use City Hall as the combined precinct. Buecksler said there is the option of combining precincts; however, combining Ward 2 Precinct 1 with 2,669 registered voters and Ward 2 Precinct 2 with 1,425 registered voters may be too large for this location. The County's suggestion was to combine precincts at Dakota Lodge because of the building's size.

Councilmember Vitelli suggested using the ice arena. Schroeder said any election, especially a special election at a different time of year, could be a problem for hockey season. Buecksler added that 2020 will have an additional election in March.

Councilmember Fernandez said he thinks it's odd to have a polling place outside the ward.

Mayor Napier said if we are going to make a decision on a new location that it shouldn't be for just one year.

Schroeder asked Council if it would make sense to look at City Hall and see if the County would agree to combine two precincts here. If not, he asked if the Council would agree to relocating to Dakota Lodge.

Buecksler said that City Hall could be explored and brought back to Council on January 28. Councilmember Justen said that would address the transportation concern. Council agreed.

#### **D. Oppidan Right of Entry Agreement**

In December 2018, Schroeder said the former City Council consented to working with Oppidan toward a development proposal on the former Thompson Oaks property. In order for the developer to conduct due diligence, they have requested the right to enter onto the property to conduct site investigation. Schroeder said part of which is they need to conduct borings in locations and perhaps in other areas than where borings were conducted previously. He said that Oppidan is interested in conducting borings where they feel foundations will occur.

Schroeder said Oppidan suggested that the City license the property for them for the purpose of borings. Oppidan provided the City with a Right of Entry Agreement, which was included in the Council's packet. City Attorney Land said the agreement will allow Oppidan to enter the property, provides a license for them to conduct borings and mitigate any damages.

Councilmember Pace said he is in favor of it and said we should move forward to see what they can do.

Councilmember Fernandez asked what the specific tasks are. Schroeder said density boring, environmental borings, and look at vapors. He said they may not have the exact scope of the work yet.

Councilmember Fernandez said, theoretically, that after these tests they would be able to see what they will need in terms of coverage and development.

Schroeder said they will have more knowledge than they have right now. He added that if they anticipate poor soils are 15 feet but later find they're 25 feet down, they will need to know that. He said it's possible this may provide sufficient data to answer that gap question.

Councilmember Fernandez asked if we could look for additional funding once this data is in and we have a development agreement. He said we don't want to leave anything on the table in terms of federal, state or county. Anything to help soften the blow and mitigate.

Schroeder said we could go out and look for funding now but they would ask who the developer is and we would need to provide evidence that we have a developer. He said the next step is to do things like give them preferred developer status or have an Interim Development Agreement. Any of these would allow you to go to a funder and have a relationship.

Mayor Napier strongly encouraged Councilmembers Justen and Berry to meet with the City Manager to learn more about this topic. He said it is important for them to find out how we got to this point. On borings, Mayor Napier said the key is that it is important for Oppidan to get to where they need to be and this makes it official.

Councilmember Fernandez asked about the timeframe. Schroeder said that Oppidan would like to do borings now while there's no snow.

Councilmember Fernandez asked how long the process takes. Schroeder said it could be six weeks.

Council agreed that Community Development Director Hartshorn can sign the document in absence of the City Manager.

Off agenda, Councilmember Fernandez asked if we are planning to change some things on Livingston, in terms of the sidewalk. Beckwith said the assessment hearing will be in October 2020 so it will come back to Council for discussion.

## **5. Adjourn**

Motion was made by Councilmember Pace and seconded by Councilmember Justen to adjourn the meeting at 6:21 p.m.

All members present voted aye. Motion carried.

Dave Napier  
Mayor  
City of West St. Paul