

**CITY OF HAM LAKE  
CITY COUNCIL AND ECONOMIC DEVELOPMENT AUTHORITY AGENDA  
MONDAY, MAY 18, 2020**

The Ham Lake City Council and Economic Development Authority met for its regular meeting on Monday, May 18, 2020 at 6:00 p.m. in the Council Chambers at the Ham Lake City Hall located at 15544 Central Avenue NE in Ham Lake, Minnesota.

**MEMBERS PRESENT:** Mayor Mike Van Kirk and Councilmembers Tom Johnson, Jim Doyle, Brian Kirkham and Gary Kirkeide

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** City Attorney, Joe Murphy; City Engineer, Tom Collins; and City Administrator, Denise Webster

**1.0 CALL TO ORDER - 6:00 P.M. – Pledge of Allegiance**

Mayor Van Kirk called the meeting to order and the Pledge of Allegiance was recited by all in attendance.

**2.0 PUBLIC COMMENT**

Christine Dahlman, 17540 Highway 65 NE, was present. Ms. Dahlman thanked the Council for not shutting down the parks. Ms. Dahlman stated that on the agenda there is a Resolution that is going to be discussed under Item 12.3 regarding becoming a Constitutional and Business Friendly Community. Ms. Dahlman stated that if the Resolution is passed, what teeth does it have for the City and will the Anoka County Sheriff's Office enforce it. Mayor Van Kirk stated that it is push back and the 14<sup>th</sup> Amendment has the meat to it.

Shana Schmitz, Executive Director of the Ham Lake Area Chamber of Commerce, was present. Ms. Schmitz stated that the Ham Lake Chamber of Commerce has been getting a lot of push back from Ham Lake small business owners to re-open. Ms. Schmitz read a letter from the Chamber of Commerce supporting the choice of businesses and residents to decide whether they stay at home or open their businesses. There was discussion that the definition of an "emergency" needs to be defined more clearly and that people are resistant to being told what to do. Mayor Van Kirk stated that "one size" does not fit all and all businesses have protocols in place and the world cannot be kept locked down. Mayor Van Kirk stated that the goal line keeps getting moved for businesses to open.

**3.0 SPECIAL APPEARANCES/PUBLIC HEARINGS – None**

**4.0 CONSENT AGENDA**

These items are considered to be routine and will be enacted in one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be

removed from the Consent Agenda and considered in normal sequence. (All items listed on the Consent Agenda are recommended for approval.)

4.1 Approval of minutes of May 4, 2020

4.2 Approval of claims in the amount of \$90,879.45

4.3 Approval of Ordinance No. 20-05 amending Subdivision Regulations Article 10-103 to reduce the qualifying lot sizes for lot divisions that are not required to have access onto a paved public road

4.4 Road Committee Recommendations:

- (1) Approval of having Anoka County Highway Department acquire the right-of-way for the construction of 136<sup>th</sup> Lane NE and Lincoln Street NE
- (2) Approval of directing the Attorney to draft deeds for dedicating road easements to the City for Polk Street NE, south of 173<sup>rd</sup> Avenue NE
- (6) Approval directing the paving company to replace the top lift of the bituminous in Nettas Preserve that meets the MnDOT density testing requirements
- (8) Approval of Resolution No. 20-12 requesting an advancement of MSA Funds
- (12) Approval directing the Attorney to draft a driveway license agreement for 4653 Lexington Avenue NE

**Motion by Kirkham, seconded by Johnson, to approve the May 18, 2020 Consent Agenda. All in favor, motion carried.**

**5.0 PLANNING COMMISSION RECOMMENDATIONS – None**

**6.0 PARK AND TREE COMMISSION RECOMMENDATIONS – None**

**7.0 ECONOMIC DEVELOPMENT AUTHORITY – None**

**8.0 APPEARANCES – None**

**9.0 CITY ATTORNEY – None**

**10.0 CITY ENGINEER – None**

**11.0 CITY ADMINISTRATOR – None**

**12.0 COUNCIL BUSINESS**

12.1 Committee Reports

Councilmember Doyle stated that the Road Committee met and all items on the agenda have been approved.

Councilmember Kirkham stated that he spoke to Anoka County Commissioner Julie Braastad regarding the intersection at Constance Boulevard NE and Central Avenue NE. Councilmember Kirkham stated that Commissioner Braastad stated that it would be up to the City to move forward with the road because the City's road is connecting to a County road.

12.2 Discussion of waiving On-Sale Liquor Licensing Fees due to COVID-19

There was discussion of the restaurants and bars that have been forced to close due to the Governor's orders and whether the liquor license fees should be waived or prorated. Councilmember Johnson stated that he is in favor of waiving the fees for the time that the businesses were not open, but isn't sure about waiving the liquor license fees for the term is from July 1, 2020 to June 30, 2021. Councilmember Johnson stated that they will presumably be open during that time at some point. Councilmember

Johnson stated that he is concerned with what kind of precedent this would set for the future and gave an example if a developer comes in and says that COVID-19 has affected his development and wants to have his parkland dedication fees waived, but is totally in agreement for a business not to have to pay a fee for the time that the government has forced them to close. Attorney Murphy stated there is uncertainty of how long these businesses will be shut down, so it could be addressed in different ways, such as prorating or refunding the fees that have already been paid during the closures. Mayor Van Kirk stated that he is okay with prorating, but does not want to charge any fees right now and wants to wait and make a decision when they are able to reopen. Attorney Murphy stated that the tricky part is that the renewal period is July 1, 2020 to June 30, 2021. Councilmember Kirkeide stated that he is okay with prorating the fees and to look at this again on July 1<sup>st</sup>. Councilmember Doyle stated that he agrees with the prorating also, but feels that this should be reviewed in the fall. Mayor Van Kirk stated that this could be reviewed in October so the businesses don't have to pay the fees up front with the renewal application. Councilmember Kirkeide stated that it would then give the businesses a chance to recover some of their losses. There was discussion of prorating the fees for the months that the businesses have been closed. Councilmember Johnson gave an example that if the business has been shut down for four months, the fees for the renewal license would not be collected for the first four months and then allow monthly payments after that, beginning November 1<sup>st</sup>. Mayor Van Kirk stated that this should be reviewed again in October. There was discussion of the fees and what they actually pay for. Attorney Murphy stated that some of those fees help pay for law enforcement when they have to respond to a call at the establishment. **Motion by Van Kirk, seconded by Kirkeide, to accept the Liquor License Applications now without any fees, prorate the fees during the time that the restaurants and bars have been closed for the renewal licenses, allowing monthly payments for the remaining months and review this again in October, 2020. All in favor, motion carried.**

### 12.3 Discussion of adopting Resolution No. 20-13 regarding being a Constitutional and Business Friendly Community

Mayor Van Kirk read the Resolution that is before the City Council regarding being a Constitutional and Business Friendly Community. Mayor Van Kirk stated that the Executive Order is violating our 14<sup>th</sup> Amendment. Councilmember Kirkham stated that it is also violating our 1<sup>st</sup> and 5<sup>th</sup> Amendment. Councilmember Johnson stated that the letter from the League of Minnesota Cities (LMC) states that they provide the city's liability coverage and are urging cities to exercise restraint against adoption of Resolutions or actions which may expose the City and its officials to civil and criminal liability. Councilmember Johnson stated that the letter states that the City does not have the ability to be less restrictive than state law. Councilmember Johnson stated that if the city does not enforce the executive order, the ramifications could include potential liability for damages which such litigation would unlikely be covered by the LMC. Councilmember Johnson stated that he feels that this is very unlikely to happen but is reading what the LMC has advised. Councilmember Johnson stated that if one business in the City does decide to open and we don't follow state guidelines, the LMC liability insurance does not cover the City in case of any legal fees. Councilmember Johnson stated that he is in total agreement with what was said at Public Comment and his personal belief is that these businesses should be able to open and it's the responsibility of the business to take the precautions to protect the safety of their clients. Councilmember Johnson stated that he is reading what the LMC is saying and is putting on his "hat" as someone who has a fiduciary responsibility for the City. Councilmember Johnson stated that the LMC is

saying that their liability coverage does not extend to the City nor to the Council under those circumstances and there would not be liability coverage for individual councilmembers either. Councilmember Johnson stated “to be frank that makes me nervous on behalf of the citizens, the City and myself personally”. Councilmember Doyle questioned who is dictating what businesses are essential and the State should not be able to do that. Councilmember Johnson stated that we do not have the legal authority to be less restrictive than the State. Councilmember Kirkham stated that Councilmember Johnson is right, but we’re just trying to pool cities together to support businesses. Councilmember Johnson stated that we can pass this resolution, but it really doesn’t mean anything. Councilmember Kirkeide stated that we are making a statement of support that this needs to be looked at by both political parties. Councilmember Kirkeide stated that we have truly lost our freedom if we are afraid to make a statement. Attorney Murphy stated that the LMC doesn’t know what will or won’t come from these kinds of Resolutions, but liability insurance could be lost for the City. Attorney Murphy stated that this Resolution is more of an expression of a philosophy or policy. Attorney Murphy stated that ultimately it is up to the businesses if they are going to open up or not and we have seen in Stearns County with the Court Order for the business to remain closed. Attorney Murphy stated that there are a lot of unknowns by passing this Resolution, which are outlined in the letter from the LMC. There was discussion if the Anoka County Sheriff’s Office would enforce shutting down the businesses if they opened before being allowed to. Attorney Murphy stated that the Sheriff’s Office goes by complaints and they have their own policies that have to be followed. Councilmember Kirkeide stated that all’s we are doing is supporting the Constitution and our businesses. Councilmember Kirkham stated that he is in full support of the Resolution and willing to take the risk. Councilmember Johnson stated that we do not have any long-term care facilities in Ham Lake and the last sentence should be removed referencing long-term care facilities should be removed. **Motion by Van Kirk, seconded by Kirkeide, to approve adopting Resolution No. 20-13, regarding being a Constitutional Business Friendly Community, removing the last sentence referencing long-term care facilities. All in favor, motion carried.**

#### 12.4 Announcements and future agenda items

Councilmember Kirkham stated that 83.1% of Ham Lake residents have responded to the Census and Andover is in first place for responding to 86.1%.

**Motion by Kirkeide, seconded by Kirkham, to adjourn the meeting at 6:53 p.m. All in favor, motion carried.**

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Denise Webster, Administrator