

REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, April 22, 2019
7:00 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Tonja West-Hafner, Susan Pha, Mark Mata, Wynfred Russell and Lisa Jacobson; City Manager Jay Stroebel; City Attorney Jim Thomson; Community Development Director Kim Berggren; Finance Director LaTonia Green; Police Chief Craig Enevoldsen and City Clerk Devin Montero.

ABSENT: Council Member Terry Parks (excused)

Student Leaders Present:

Abas Suomahoro, Morgan Steinkamp, Mehki Taylor, Diana Condo, D'Ante Hall, Nyomi Crushon, Miyah Taylor, Laniah McGhee, Danyel Davis

Mayor Lunde opened the meeting with the Pledge of Allegiance.

2A RESPONSE TO PRIOR PUBLIC COMMENT – None.

2B PUBLIC COMMENT – None.

3A. MOTION LUNDE, SECOND JACOBSON TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK WITH ITEMS 8.1 MOVED TO 3B4, 4.3 TO 7.2, 4.7 TO 7.3 AND MOVING THE CONSENT ITEMS TO ITEM 3B.0. MOTION PASSED UNANIMOUSLY.

3B PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B.0 (4.0) MOTION LUNDE, SECOND WEST-HAFNER TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEMS:

4.1 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-61 ACCEPTING BIDS AND AWARING CONTRACT TO MICHELS CORPORATION OF BROWNSVILLE, WISCONSIN FOR 2019 SANITARY SEWER CIPP LINING, CIP 3001-19.

4.2 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-62 APPROVING NO PARKING ALONG BOTH SIDES OF 101ST AVENUE NORTH BETWEEN JEFFERSON HIGHWAY AND FUTURE XYLON AVENUE; CIP 4042-19.

4.4 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-63 TO APPROVE THE REMOVAL OF THE ADMINISTRATIVE FEE PORTION OF THE LEASE-USE AGREEMENT BETWEEN THE CITY, THE STATE, AND SECOND HARVEST HEARTLAND AND APPROVING AN ALTERNATIVE FEE AGREEMENT.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-64 APPROVING A TIME EXTENSION FOR THE PRELIMINARY PLAT OF "SAMARA CIRCLE."

4.6 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-65 APPROVING REVISIONS OF THE EMPLOYEE HANDBOOK SECTION 7.07 – LEAVE DONATION POLICY.

4.8 TO WAIVE THE READING AND ADOPT RESOLUTION #2019-66 AUTHORIZING THE RENEWAL OF THE MICROSOFT ENTERPRISE AGREEMENT FOR A THREE-YEAR TERM IN THE AMOUNT OF \$150,257.80 PER YEAR FROM SOFTWARE HOUSE INTERNATIONAL THROUGH THE STATE OF MINNESOTA PURCHASING CONTRACT.

MOTION PASSED UNANIMOUSLY.

3B.1 Mayor's Proclamation of April 22, 2019 as "Youth in City Government Day."

Mayor Lunde proclaimed April 22, 2019 as "Youth in City Government Day" in the city of Brooklyn Park.

3B.2 Brooklyn Avenues Update

Community Development Director Kim Berggren and Student Leader Danyel Davis introduced Dr. Katherine Meerse.

Avenues for Homeless Youth Executive Director Dr. Katherine Meerse gave an update for Brooklyn Avenues Youth Shelter.

3B.3 Mayor's Proclamation of April 25, 2019 as "From Statistics To Solutions Day."

Mayor Lunde and Student Leader Diana Condo read a proclamation and proclaimed April 25, 2019 as "From Statistics To Solutions Day" in the city of Brooklyn Park. He introduced Rose McKinney, Know the Truth/MN Adult and Teen Challenge, and she briefed the Council on the conference.

3B.4 (8.1) Youth Services Liaison Antonio Smith briefed the Council on Cities United Youth Tobacco Prevention Project Report. He introduced Cities United Researchers Kaysone Syonesa, BYC Staff Liaison, and Cities United youth researchers and they briefed the Council on the project.

Youth Services Liaison Smith introduced Gretchen Garmen, Hennepin County Public Health Department, and she briefed the Council on their partnership project with Cities United and the Youth Council on 2018 tobacco project.

The following individuals addressed the Council:

1. Abdu Hassen, 6300 Zane Ave N. Owner of gas station. Did not have a problem with the state having it over 21, because all businesses would be affected too. He stated if the restriction was placed on his business, it would take business to the liquor stores and they don't want the tobacco business. He stated 40-45% of their sales were in tobacco. He stated he would like to partner with the youth group for after school programs and help them with development in employment and anything to contribute what was best

for youth. He stated there were so many positive things they could do without killing the small businesses.

Student Leader Laniah McGhee stated that increasing prices could force kids to steal and would hurt those who didn't have access to money.

The Cities United researchers representative stated in their focus groups they found that a lot of kids expressed that they used tobacco products to relieve stress and to combat the deep trauma and troubles they had in their lives. In addition to their recommendations to increase awareness and education about tobacco and related products, they wanted to ensure youth no longer had to use those products as an avenue or as an escape from reality and rather give them a healthy alternative to actually be able to solve their problems.

Student Leader Morgan Steinkamp thought it was important to take the initiative of increasing the rates for compliance checks in stores because she knew a lot of stores didn't check for identification and that was a huge issue and was important to make sure they were doing it.

Student Leader Miyah Taylor asked if the City Council could have an impact on pricing as suggested.

The Cities United researchers representative stated the Council could have a specific impact on pricing through taxes on the licensing fee and imports of tobacco.

Hennepin County Representative Gretchen Garmin stated the city could also look at increasing the price of cigars to \$2.60 per cigar. She stated often times the cigars were sold in singles and doubles at .99 a pack. She stated young people often times had change in their pocket and it was easy to buy cigars. By increasing the price, it was less likely that young people would have that money in their pocket or might think to spend it elsewhere. She stated they could also look at not allowing coupons or discounts on tobacco products.

At 8:16 p.m., Mayor Lunde stated he was going to call for a recess for five minutes so that the students leaders could leave and then reconvene the Board of Appeal and Equalization meeting.

At 8:16 p.m., the Mayor recessed the Council meeting.

At 9:04 p.m., Mayor Lunde reconvened the City Council meeting.

Mayor Lunde stated he recessed the meeting in the middle of Item 8.1 and didn't know if the Council wanted to pick it up later and continue on with the meeting. He asked Recreation and Parks Director Yungers if the Council was asking him if they should hold off on the discussions and direct question to her and if there seemed to be a consensus toward action.

Recreation and Parks Director Yungers stated they youth had to leave but did have Gretchen from Hennepin County Public Health in the Chambers. She stated she indicated to them that if there was any discussion, she would bring it back to them. She stated what Youth Services Liaison Smith shared with youth was they did have plans and the next step was to take recommendations and work with the city's public health division in convening of the youth, some of business owners, and get feedback and try to bring it back again to check with the

Council around the results and any joint recommendations they could make between the business community and the young people. She stated if they had any comments or questions, they would want to hear them so they could bring them to the youth and make sure they addressed those in preparation to come back to the Council and meet with business owners.

City Manager Stroebel stated staff was looking for direction and didn't know what the Council wanted to do in terms of the next steps. He stated they could it back to a future work session or future Council meeting, but given the previous discussion tonight, they would like some initial direction and possible next steps from the Council.

Council Member Mata stated that after hearing the discussions tonight, he never smoked and was against it. He had a hard time putting regulations that said someone needed to be 21 before they could smoke and same for drinking, but yet they could send them overseas to die for the country. He stated it was odd for him to put restrictions on someone, but they would ask for their life. He stated making that decision wouldn't go without a lot of thought.

He stated many business owners did go through sting operations done by the Police Department to make sure the people selling tobacco were checking IDs, etc. He stated that on the internet side of things, it became difficult when kids could order on the internet and have it shipped to their house. He stated the internet didn't know the age of the kids ordering it because they assumed it was a parent. He stated there should be some focus to put it on other businesses beside the local businesses. He thought whatever was done, it should be something that could start at Brooklyn Park, but it should come from the State down or County wide. He stated the city was also a bordered county, which meant when the smoking ban came out, to help it, we had people going to other establishments across the river because they couldn't in Hennepin County because they decided to take on the task first. He stated it also created an unfunded mandate that the city needed to police it and now had police officers, instead of doing their jobs, going to restaurant establishments because someone was smoking in there. He stated one thing the city did was comply with the no smoking indoors, but those that wanted an outdoor patio, the city allowed an outdoor space for the one who could smoke. He stated they were trying to do things to affect younger demographics but the city had to make sure the older mature people's liberties were not taken away and would say they earned that right to smoke. He stated at one time, no smoking signs were put up in the parks but had not seen a police officer arrest anyone for smoking in the park. He stated he would like to see things that had teeth, and his direction would be, what could they do about the invisible seller and if they were going to do things to not just affect the city but make it bigger than that.

Council Member West-Hafner stated Hennepin County did take the lead on creating a county wide interior smoking ban. She asked if they were thinking about doing it county wide to try to get it to the statewide level. She stated she heard it many times that people were going to other counties for that type of thing and didn't think doing it city by city was an impactful way to handle it. She stated she didn't have a problem with going to 21. It was the piece meal of it in different cities and she didn't think it helped the overall cause.

Hennepin County Representative Garmin stated Hennepin County only licensed for tobacco products to five cities and the airport; otherwise, licensing, inspections and compliance fell to the jurisdiction of the city. She stated Hennepin County was considering some tobacco prevention policies that would be heard on Thursday. She stated what Hennepin County passed only impacted the five cities, Greenfield, Mounds, Rogers, Rockford and St. Beneficious, and the

airport because the city had control of its own licensing, inspection and policing. She stated there were a number of tobacco prevention policies being considered at state level, like Tobacco 21, E-Cigarettes being included in the Clean Indoor Air Act and some cessation funding. She stated Tobacco 21 was still in the pipeline of being considered and it might or might not pass and but would be considered next year. She stated Hennepin County encouraged cities to keep moving forward with considering tobacco prevention policies.

Council Member Jacobson stated she was leery of the Council putting that kind of policy in place in the city. She stated the City Council could regulate commerce in the community and set prices of items. She asked that outside of taxing how could they as a local government have such an impact.

City Manager Stroebel stated some cities had requested from the state to have local sales tax and didn't know if they could restrict it to apply to certain goods and not others. He stated that within the last couple of years, the city made some changes to not allow individual sales of cigars. He stated the only way he imagined impacting the sale price was if the city had a local sales tax, which some cities do and Brooklyn Park didn't, and it would apply to certain goods and services and not others. He stated there might be other options he was not aware of.

Recreation and Parks Director Yungers stated the framework around their ability to regulate or work toward youth tobacco policy did not mean it was just for the T-21. She stated in the report, they would see youth had through their work, gone youth to youth, had made recommendations that restricted the number of new licenses or working toward a reduction of license near youth types of places, such as schools, recreation centers and/or parks. She stated there were different actions within their statutory rights to limit different types of tobacco sales based on the type of store. She stated the youth were not just looking at T21 but multiple levers that the Council might have as it related to reducing their access. She stated the report talked about the Cities United recommendations next to the recommendation the city of Brooklyn Center took, and they took action on some items and T21 was not the recommendation of the Cities United youth.

Mayor Lunde stated he was curious about the affects because it was a great idea, but did it actually do something. He stated he noticed that people said within the last couple of years they had seen smoking go down. He stated he heard someone talk about that it would take a generation, which meant to him know one knew. He stated he didn't like doing things to make himself feel good and was trying to figure out if it actually did things. He stated he heard people said it did, but he wanted to know what it was based on.

Hennepin County Rep Garmin stated there were a number of recommendations that both youth groups made that considered evidence based on tobacco policy strategies that reduced tobacco use. She stated some of those being the flavor restrictions, proximity density, pricing of tobacco products and Tobacco 21. She stated they did have some reports/studies they could share with the Council on T21 that was done in a city in Massachusetts that when they passed T21, it showed a reduction in the use of tobacco in the community. She stated she had other data to share too.

Mayor Lunde stated he would like that data. He stated the staff report didn't have the data that said about the evidence and would always look at the footnotes to see where the data came

from. He stated if she could prove something that actually had an impact, he would appreciate the data. He asked if vaping was a gateway to cigarettes.

Hennepin County Rep Garmin stated young people reported from what they heard from the youth focus groups on tobacco use. She stated she didn't think it was specified as to what type of tobacco, cigarettes or a mechanism to put CBD oil or marijuana type oil in devices. She stated young people often times were using and could be by tobacco wraps that were flavored and could use them to roll marijuana.

Mayor Lunde stated that during the session with the legislators, a few of city staff asked the legislators to explain why tobacco needed to go to 21, when some wanted to legalize marijuana. He stated he was trying to understand the dynamics, because one was horrible but the other one was great and why they should make it legal.

Hennepin County Rep Garmin stated with tobacco use, the youth mind was still developing until age 25 and nicotine impacted youth brain development of young people. She stated that was one of the reasons for Tobacco 21. She stated it was also that peer to peer with the 18-year-olds who could buy tobacco products like cigarettes and often times seniors in high school were giving it to the 14 to 16-year-olds in school and using it in school and those were some of the reasons for T-21.

Mayor Lunde asked who the enforcement agent was to control cigarette smoking in the parks.

Recreation and Parks Director Yungers stated it depended on the city. She stated it could be a park ordinance and might have park police or some have public awareness campaigns and use a reminder not to smoke in the parks while children were present. She stated in the city's case, it would be the Police Department.

Mayor Lunde stated with the Cities United position, it was about reducing violence and one of the outcomes was also to try and improve relationships with police and youth of diverse backgrounds. He stated if they asked the police to go in the parks and try to enforce an ordinance on a 19-year-old, the interaction would not be a positive one. He stated it would usually drive things to the negative and that would be one of the things that would not be something to help the overall mission of getting trust if they were in there kicking kids out if they smoked in the park, but they could smoke cross the street.

Police Chief Enevoldsen stated what the CU group presented was that they were going to go out and talk to the community. He stated the Council only heard one side of the story tonight. He stated they had a lot of internal conversations about what potentially the industry would bring to the Council. He stated the conversation tonight was great, but thought it would get steered once they did the community conversation with people who owned businesses within the city.

Mayor Lunde stated it was a state-wide organization that was pushing it local, and not local people. He stated they hadn't gotten the legislature to move on it and then they went after each local jurisdiction to pass things rather than to have state legislators take it up and take care of it because one rule would apply to all.

He stated it was a supply problem where they were going to try and limit the supply, which never worked anywhere to stop anything when prevention was always education. He stated the

war on drugs had been going on for three to four decades and had not fixed anything. He stated if they wanted people to stop smoking, the best way to do it was to educate them. He stated if they knew it would cost them later, it would be more compelling.

Council Member Pha stated it was disturbing to hear 40% of 9th to 11th graders used flavored tobacco products and understood there was not a perfect solution to the problem and they had to do something about it. She stated there was research and data to show certain measures they could take that would actually reduce the limit of youth using tobacco. She stated she worked with a lot of youth and the reason why they use tobacco products, especially e-cigarettes, is they believed it was not harmful to them and only cigarettes were bad. She stated that was because there was more information on line about the good things about e-cigarettes than the negative things and harmful effects of e-cigarettes. She stated that if took the Council having to tax more for e-cigarette sales so they could do more education about the harmful effects of e-cigarettes, that was what they needed to do. She stated there was more marketing on how e-cigarettes were good versus cigarettes than the negative effects. She stated that was what young people were saying to their friends and why the increase in e-cigarette use. She stated they had to do something and save the youth. She stated she was open to idea that staff work with community and youth come back with real steps they could take for the Council to limit and reduce youth from using tobacco products. She believed if they limited the flavor and single use versus packs, that would help. She stated young people bought tobacco products because it was cheap and they could afford it. If they increased it, they wouldn't buy it and if they could limit 5 to 10% of youth, that was worth it.

Recreation and Parks Director Yungers stated they would have the joint meeting with the business owners, work with the youth to have that dialog and also work with Hennepin County and Public Health to bring forward some data around the effectiveness of certain initiatives.

6.1 Planning Director Cindy Sherman briefed the Council on the Broadway Square (CMFG/Mohagen Hansen Architecture | Interiors) – Conditional Use Permit #19-104 for a Drive-Thru at 8479 West Broadway Avenue.

6.1 MOTION LUNDE, SECOND JACOBSON TO WAIVE THE READING AND ADOPT RESOLUTION #2019-67 APPROVING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU AT 8479 WEST BROADWAY. MOTION PASSED UNANIMOUSLY.

6.2 Planning Director Cindy Sherman briefed the Council on the Code Amendment for Veterinary Clinics in Business Districts.

6.2 MOTION JACOBSON, SECOND RUSSELL TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING SECTION 152.342 OF CITY CODE PERTAINING TO VETERINARY CLINICS. MOTION PASSED UNANIMOUSLY.

6.3 Planning Director Cindy Sherman briefed the Council on the Property Conveyance to MnDOT for the Highway 169/101st Avenue Interchange.

6.3 MOTION WEST-HAFNER, SECOND RUSSELL TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2019-1240 AUTHORIZING THE CONVEYANCE OF CITY OWNED PROPERTY AT 8600 101ST AVENUE NORTH. MOTION PASSED. (5 TO 1) MATA VOTED NO.

7.1 City Engineer Jesse Struve briefed the Council on Supplemental Letter of Agreement No. 24 with SRF Consulting Group, Inc. to Provide Environmental Consulting Services for the Trunk Highway 169 / 101st Avenue Interchange; CIP 4042-19.

7.1 MOTION RUSSELL, SECOND WEST-HAFNER TO WAIVE THE READING AND ADOPT RESOLUTION #2019-68 TO APPROVE SUPPLEMENTAL LETTER AGREEMENT NO. 24 WITH SRF CONSULTING GROUP, INC. TO PROVIDE ENVIRONMENTAL CONSULTING SERVICES FOR THE TRUNK HIGHWAY 169 / 101ST AVENUE INTERCHANGE; CIP 4042-19.

Council Member Mata stated he would be voting no to the motion due to it was an expense against a bridge that he felt that it could be dealt with a stop light.

7.1 THE MOTION PASSED. (5 TO 1) MATA VOTED NO.

(7.2) 4.3 Council Member Mata stated he pulled the item from the Consent agenda due to the fact it was talking about the city using acquisition through eminent domain. He stated in this situation he was not going to support it since it wasn't going to be unanimous. He pulled it because he was not going to use eminent domain to remove someone from their property to build a bridge and felt it could be dealt with stop lights.

7.2 (4.3) MOTION LUNDE, SECOND RUSSELL TO WAIVE THE READING AND ADOPT RESOLUTION #2019-69 AUTHORIZING APPROVAL OF APPRAISED VALUES, OFFERS FOR COMPENSATION, AND ACQUISITION BY EMINENT DOMAIN FOR CIP 4042-19, TH 169/101ST AVENUE INTERCHANGE. MOTION PASSED. (5 TO 1) MATA VOTED NO.

(7.3) 4.7 Council Member Mata stated he pulled the item from Consent because he needed more information on it because the report said they were going to not use a Brooklyn Park business that was going to be allowed to sell pull tabs. He stated in the past they used Brooklyn areas groups such as the Lions Club, Elks Club, Brooklyn Park Athletic Association, Brooklyn Park Youth Area Hockey Association, and now were going to allow the CDAA. He stated he wanted to verify the Champlin park youth hockey association, if it was CDAA, which was Champlin and Dayton, then they should reserve it for a youth group in the city to make money for parents of the city's youth groups to be able to afford themselves different things with the sports activities. He stated at the last work session, there were discussions about the dome proposal at Park Center High School and had the BPAA President Dan Williams present to speak on behalf of what services they would use to help facilitate that dome. He stated those situations will have expenses. He stated he had coached in BPAA and CDAA, and for CDAA, they had to pay nonresident fees for a Brooklyn Park resident. He stated to allow someone to profit and help pay expenses inside the city's boundary that was not going to go inside the city's boundary was uneasy for him even if the ordinance allowed. He stated he was not why it went back to Minneapolis and any city that bordered Brooklyn Park.

Rental and Business Licensing Manager Keith Jullie stated City Code Chapter 113, lawful gambling, talked about the trade area being the city of Brooklyn Park, any contiguous cities and the city of Minneapolis. He stated it was for the Champlin Youth Hockey Association and for more detail and specific questions about the benefits, the President of the Champlin Youth Hockey Association was present and could explain the membership of the association, where those kids were located in the schools and how it interacted with Brooklyn Park.

Nate Stulc, President, CPYHA, stated it was not the CDAA and they were separate. He stated it was the CPYHA and they were a 501(C)(3) which encompassed the Champlin Park High School boundaries. He stated CPYHA consisted of 400 residents and about 40 to 50 percent of those players were residents of Brooklyn Park. He stated it would directly impact 175 players from Brooklyn Park and was in compliance with the gambling law but was a direct benefit to those families in Brooklyn Park. He stated they used the charitable gambling money to go directly back to those families with reducing costs of hockey, hardship fund and buying equipment for kids.

Council Member Mata thanked Mr. Stulc for the information. He wanted to make sure that was not going to be that situation with CDAA because several years ago they used to have the Brooklyn Area Youth Hockey Association and had three pull tab places, both Kelly's and Mad Jacks. He stated since then, there had been a change over and St. Andrews Club took over two of them and allowed one at Mad Jacks.

7.3 (4.7) MOTION MATA, SECOND WEST-HAFNER TO WAIVE THE READING AND ADOPT RESOLUTION #2019-70 TO APPROVE THE ISSUANCE OF A LAWFUL GAMBLING PREMISES PERMIT FOR CHAMPLIN PARK YOUTH HOCKEY ASSOCIATION AT PEAR TWO INC DBA ROASTED PEAR, 9690 COLORADO LANE NORTH, BROOKLYN PARK.

Mayor Lunde stated that to Council Member's Mata point about CDAA, he knew a lot of Brooklyn Park residents went there to play because there was a high school and different sports that were organized differently. He asked if it was something where they should look at the language and have some guidance for those applying. He stated if it was CDAA, it was probably a no answer versus another organization.

Rental and Business Licensing Manager Jullie stated they could have further discussions on it. He stated the state statute called out that 75 percent of net profits needed to go back to local communities. He stated there was language at state level directing whether or not that would be necessary, and they would look into it.

Mayor Lunde stated the Council had always the purview to say no, but it would be good to let people know when applying that there was a factor the Council considered.

City Attorney Thomson stated they could look into it. He stated there were some issues associated with that because the city was not issuing the license and was issuing the premise permit. He stated the question was if there was something about the premise that they didn't want to hold a gambling license.

7.3 (4.7) THE MOTION PASSED UNANIMOUSLY.

9A COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

Council Member Jacobson stated the Brooklyn Park Lions Smelt Fry was from Wednesday through Friday at the Community Activity Center, from 4 p.m. to 8 p.m. and tickets were available at the door.

9B CITY MANAGER REPORTS AND ANNOUNCEMENTS

City Manager Stroebel stated that on Thursday, there was a Brooklyn Park Community Assembly that would be highlighting the second anniversary of *BP 2025* in the Council Chambers, starting at 5:45 p.m.

He stated that on Monday, April 29, was the Council's priority session and also needed to get the Insights completed and turned in.

He stated the official opening of the Brooklyns with a test eating opportunity was last Thursday and Friday and encouraged everyone to check it out.

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 10:03 p.m.

JEFFREY JONEAL LUNDE, MAYOR

DEVIN MONTERO, CITY CLERK