

Councilpersons:
First Ward: Friedmeyer, Wharton
Second Ward: Schmidt, Kruger
Third Ward: Meurer, Schoen

Mayor: Rollin Hall
City Atty: Peter Ekstrand
City Adm: Chad Springer
City Clerk: Susan Schamaun
Date: February 3, 2015

PROCEEDINGS OF THE CITY COUNCIL

The regular meeting of the City Council of the City of Wabasha was held on Wednesday, February 3, 2015, and was called to order at 7:00 pm by Mayor Hall.

Mayor Hall and all Council Members were present.

All present stood and recited the Pledge of Allegiance.

Guest Speaker: Talia Miller – ‘Mayor For a Day’:

Talia Miller came forward and read her winning essay “Mayor For A Day”. Mayor Hall introduced Talia and welcomed her.

Mayoral Proclamation in Observance of Honoree Mayor For A Day:

**CITY OF WABASHA, MINNESOTA
MAYORAL PROCLAMATION**

**IN OBSERVANCE OF
HONOREE MAYOR FOR A DAY**

Whereas The League of Minnesota Cities is a membership organization serving more than 830 cities in the state; and

Whereas The League recently sponsored the 2nd annual Mayor for a Day Student Essay contest; and

Whereas More than 400 Minnesota elementary school students in grades 4-6 participated in 2014; and

Whereas Students were asked to write about how they would make their cities better; and

Whereas Kellogg resident Talia Miller, a 5th grader at Wabasha-Kellogg School, submitted an essay about parks and recreation services; and

Whereas Miss Miller was chosen by the League as one of three winning essay writers;

Now, Therefore, I, Mayor Rollin Hall, do hereby proclaim that on February 4th, 2015

Talia Miller, will be Honoree Mayor for the Day

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the Seal of the City of Wabasha, Minnesota to be affixed on this 3rd day of February, 2015.

3. Public Comments.

Jeanne Pietig, Reads Landing resident and member of County Planning Commission, stated her comments the City's Planning Commission were not recognized at their meeting as well as others comments. She stated she sent an email to the Mayor and City Council requesting that they strengthen the bluff protection. Stated per Minnesota Statute 462, regarding city government, a public hearing was needed despite the comments that the Planning Commission didn't have to hold a public hearing and that it was discretionary. She also felt changes should be considered and should be made.

Mike Weinandt, employee for Great River Homes, stated the 2015 Grumpy Plunge will be February 28, 2015 at Slippery's. He stated all proceeds stay local and the plunge brings a lot of people to the City. The fundraiser benefits Great River Homes and the Rotary Club of Wabasha. There are special awards given out for best costumes, the plunger who traveled the farthest and the plunger who raised the most money. There is a minimum \$75 pledge amount. He thanked the City for their support of the fundraiser.

Charles Bricher, 3 Buena Vista Drive, stated he served on the Planning Commission and gave a brief presentation of how the ordinance came to be. He stated the Planning Commission felt a separate mining ordinance was needed. The EQB, in 2013 and early 2014, went to several cities and held public meetings to hear concerns. He stated a moratorium was enacted to give the Planning Commission time to draft a mining ordinance. In December 2014, the Planning Commission approved the final draft ordinance after sending it to the EQB and also reviewing their comments with the MN Pollution Control Board and the DNR. He stated he recommends adopting the mining ordinance.

Craig Falkum, member of Planning Commission, came forward and stated he voted against adopting the draft ordinance but today he recommends approving it due to the time factor. He stated he thinks it is a good start and amendments can be looked at and implemented later. He stated a ban might be done but needs to be researched and determined if it is defensible. He stated our best protection is having a mining ordinance.

Eric Pierson, resident, stated the mining ordinance is a lot better than nothing. He stated he is glad people realize it is not perfect and recommended to keep amending it. He stated bans need to be defensible in court. He stated Florence Township has a zoning ordinance and section 10 of that ordinance has a ban that stands up. They are not banning a product, they are regulating a process. He stated there was an attorney at the City's Planning Commission meeting that suggested some language to modify the existing proposed mining ordinance (section 3) and Mr. Pierson recommended not using that language as he felt it had a huge loophole.

Steve Wick, West side resident, came forward and stated they are against any mining of any mineral. He also stated he supported Mr. Pierson's views. He stated voters are watching so consider your constituency.

4. Changes or Additions to Agenda:

Councilperson Friedmeyer requested adding 10.3 Examination of Current Moratorium on mining and possible action. Councilperson Wharton requested moving it to 10.0. Councilperson Friedmeyer stated he felt it should be moved to 10.3 under General Business. Councilperson Schoen requested 8.6 1st

Reading: Waterworks Ordinance amendment be pulled from the Consent Agenda.

Councilpersons Friedmeyer and Schmidt moved to approve the agenda as modified. Adopted unanimously.

5. Mayor's Report:

Mayor Hall recognized Talia Miller as a special student at W-K School and also recognized the support of her parents, teachers and administration. He stated Talia won the contest and there were many students who wrote an essay for the 'Mayor For A Day Contest' and he wanted to thank all the students, parents, teachers and administrators for their efforts.

He gave a brief outline of the many happenings in the City:

- Port Authority approved hiring a consultant to study the best use of the Riverfront Property
- Regional Event Center Committee is hard at work and weekly meetings are being held. An update may be ready for the March City Council meeting
- Grumpy Old Men and Soar With the Eagles events coming up

6. Committee Reports and Wabasha Good News:

Park Board: Councilperson Schoen stated Park Board discussed some of the challenges in each park as well as some of the projects that need to be addressed. She stated she is going to start looking for grants to enhance some of the parks. They also made some small changes for the Community Garden which she feels will be a positive thing.

Planning Commission: Dave Kruger reported the Planning Commission met on January 13th and had a public hearing in reference to the Mining Ordinance. They approved the mining ordinance and forwarded to Council with the understanding there will be more amendments in reference to water usage, blasting, times of operation etc.

Utility Commission: Councilperson Schmidt reported that the Utilities Commission met tonight. He explained they had intended in drilling a new City well this year but it has been put on hold due to changes with the Wellhead Protection Area and they want to study things. He stated there was a water main break under the railroad tracks on the West side by Bruegger Park area and this could be a very expensive project due to dealing with the railroad and the age of the infrastructure.

Councilperson Friedmeyer asked what the changes were to the Wellhead Protection Area. Councilperson Schmidt stated changes deal with stormwater and how it is dealt with.

Port Authority: Councilmember Friedmeyer stated he had nothing to report.

Administrator's Report:

Chad reported the City has had Midcontinent and HBC here several times to work on the City's audio equipment. It is an expensive fix. The City issued a snow emergency for 12:01 am and parking is prohibited on streets and alleys and vehicles can be towed. A Reception Center meeting was held and plans are still being worked on for emergencies. A meeting was held with Sarah George on the Farmer's Market and it was determined to hold it on Allegheny Avenue directly next to Hill's Hardware. Councilpersons concurred. Chad announced auditors are here doing their work for the 2014 audit.

Councilperson Meurer wondered if the audio equipment was part of the Franchise Agreements with the local cable companies. Felt maybe it was time to look at something different.

8. Consent Agenda: Councilpersons Kruger and Schoen moved to approve the following consent agenda including the warrants: Adopted unanimously.

- Approved the December 31, 2014 special Meeting Minutes
- Approved January 7, 2015 Regular Minutes
- Approved January 13, 2015 workshop Minutes
- Approved 2015-2016 Fire Contracts
- Approved 2015 Park Board Appointment and Utility Commission Appointment
- Approved Resolution for Assessment for Demolition of Building
- Approved the following warrants as presented:

Mayors/Admin/City Hall/Council	General Fund	\$4,460.52
2013 St. Proj. Engineering Fee	"	\$1,112.25
Police	"	\$10,170.53
Streets	"	\$17,494.83
Legal	"	\$5,214.47
Parks	"	\$471.29
Fire	"	\$2,184.76
Audit Fees	"	\$4,658.50
Ambulance	"	\$3,824.76
Planning	"	\$2,333.63
Pool – Annual Permit	"	\$100.00
CMS – Bldg. Inspections	"	\$596.75
Total	"	\$52,622.29

8.6: 1st Reading: Waterworks Ordinance Amendment:

Councilperson Schoen questioned who was the 'Authorized Agent'? Chad reported PeopleService would be considered the Authorized Agent. She questioned if they could negotiate contracts or special rates like water rates under Section 500.11 under the title 'Violations'. Chad stated they could add some clarifying language. She also questioned page 500.7 in reference to tapping mains. Councilperson Schmidt stated the Utilities Commission has determined that only qualified licensed plumbers can tap into the mains per the permit process. Councilperson Schoen stated she would like to see that change included so the City isn't vulnerable.

Councilpersons Schoen and Kruger moved to approve the 1st reading of the Waterworks Ordinance amendment with the clarifying amendments. Adopted unanimously.

PUBLIC HEARINGS: None

10.1 2nd Reading: Mining Ordinance:

Mayor Hall gave a brief statement before discussion on the mining ordinance. Chad Springer stated there has been a lot of communication on the mining ordinance. He stated he, Mayor Hall, Attorney Ekstrand, Molly Patterson-Lundgren met on Friday morning to go over the process of the mining ordinance and a memo was compiled detailing the process as to why it is a stand-alone ordinance versus being included in the zoning ordinance. He distributed the memo. He also distributed Attorney Ekstrand's statement of opinion since he was out of town.

Chad stated the first reading of the Mining Ordinance was at the January 6th Council Meeting and the discretionary Public Hearing was held on January 13th at the Planning Commission meeting. The Planning Commission notes are attached and in the packets. The Planning Commission will continue to work on this ordinance at upcoming meetings.

Councilpersons Friedmeyer and Schmidt moved to adopt the Mining Ordinance as presented. (see vote below) (see attached document)

Councilperson Friedmeyer stated this issue has been worked on since 2012. He stated having the mining ordinance as a separate ordinance was determined due to non-conforming uses with current mines.

Councilperson Wharton questioned if this mining ordinance is passed, would someone who applies for a permit tomorrow, would it get approved? Councilperson Friedmeyer stated he felt they would. Councilperson Wharton questioned water use in the ordinance. Councilperson Friedmeyer stated in regards to water, per Statute the companies have to go through the County and the DNR and have to make application. The DNR Hydrology Department would get involved.

Councilperson Wharton stated he had concerns on water usage/limits, fund amounts by mining companies should be set, require bank letters of credit or surety bonds to also include reclamation costs, and would like to have a ban on silica sand mining.

Councilperson Schoen stated she felt it is a good mining ordinance but is not great. She stated she wished the ordinance would have come at an earlier date so more time for reviewing was available. She stated she has a lot of issues and felt silica sand and aggregate sand mining should be separated and treated differently. She was also concerned with the gallons of water per minute and also had issues with the hours of operation and trucking.

Councilperson Kruger felt the Planning Commission has worked on this mining ordinance and the City Attorney has recommended approving the mining ordinance as presented.

Councilperson Meurer questioned the air quality monitoring part of the mining ordinance and the criteria. Councilperson Friedmeyer stated they have to be meteorologically placed. He stated he didn't see anything about covering the piles of sand. He questioned who will monitor the water quality. It is up the mining companies to develop a plan to control storm water runoff. He was also concerned with the exits and entrances to mines and wondered about going over an adjacent owners property. He thought the 30 ft setback for adjacent property owners wasn't sufficient. He also felt blowing sand should be dealt with. He stated he has asked several people how they felt about the mining ordinance. He talked to 60-70 people and only three were in favor.

Councilperson Friedmeyer stated we are governed by our city statues and state statutes and it is not realistic to vote no on the mining ordinance.

Councilperson Schmidt stated Council needs to be careful how they deal with Commission recommendations. He stated we don't even know all of the facts. He stated he felt there was more silica sand in areas outside of the City versus inside city limits. He felt the City needs the two local mines.

Councilperson Schoen stated 80% of mines in Wisconsin are not in compliance.

Councilperson Schmidt stated both mines are in the Wellhead Protection Area so have to adhere to those guidelines and standards.

Legal non-conforming uses were discussed.

Councilperson Schmidt stated he doesn't want to consider 'no blasting' for mines due to the City's current mines are already blasting.

Councilperson Schoen asked if anyone at the City has talked to any other mines other than the two existing mines. She asked specifically about Reservoir Sand Company and Chad Springer stated there has been conversation but no formal proposals have come to fruition.

Councilperson Meurer wanted to know who oversees the exploratory borings.

Molly Patterson-Lundgren stated if you have an existing use or new use and part is in City and part in township, regulations would apply from each entity. The City's zoning ordinance does regulate mining. There are two different explanations, extractions and the mining ordinance states mines can't have a negative impact on neighbor's property. The stand-alone ordinance delineates the types of mining and the application process would require mines to state what they are mining. The Mining ordinance is additional to the zoning ordinance. Truck traffic was dealt with through the Major Traffic Generator permits.

Councilperson Meurer stated public copies at the library and a few other public places would be helpful.

Councilperson Schoen recommended adopting Councilperson Wharton's ordinance (Ordinance Regulating Mining, Extraction & Processing of Crystalline Silica Sand) as an amendment to the Mining Ordinance.

Chad read Attorney Ekstrand's opinion which stated 'If a total ban on silica mining is being considered it would be best to include it as an amendment to the existing mining ordinance rather than a stand-alone ordinance, since it is in conflict with the mining ordinance in some respects. I do want to advise that a stand-alone ban on silica mining is much more likely to result in litigation at some future date by any perspective silica mining company than the mining ordinance as proposed'.

Councilperson Friedmeyer stated he recommended sending it to the Planning Commission to determine where best to place the ordinance in question.

Councilperson Schmidt stated he felt Attorney Ekstrand should review it before Council considers adding that ordinance as an amendment to the Mining Ordinance.

Councilperson Schoen stated she did request an attorney be present at tonight's meeting if we were going to be discussing an ordinance.

Mayor Hall read a letter from a citizen, Liza Eng, who had serious misgivings about approve the Mining Ordinance. It further stated the moratorium doesn't expire until March 1st which gives the City and Council time to amend the ordinance and get it right the first time. The citizen feared that the amendments may not happen.

The motion was adopted by the following vote:
Ayes: Friedmeyer, Schmidt, Kruger, Mayor Hall
Nays: Meurer, Schoen, Wharton

10.2 Discussion: Ordinance Regulating Mining, Extraction & Processing of Crystalline Silica Sand submitted by Councilperson Wharton:

Councilperson Wharton stated his ordinance bans crystalline silica sand mining and processing. It is not meant to stop the existing mines that are operating but prohibiting them from processing crystalline silica sand. He stated City Attorney Peter Ekstrand has reviewed it. He felt on the agenda it should be listed as a First Reading. Mayor Hall stated he understood it would be considered a First Reading.

Councilperson Friedmeyer asked that it be sent to the Planning Commission to be determined if it should be added to the Zoning Ordinance or the Mining Ordinance.

Councilpersons Friedmeyer and Wharton moved to forward the draft Ordinance Regulating Mining, Extraction & Processing of Crystalline Silica Sand to the Planning Commission to review for possible inclusion in the City's Zoning and/or Mining Ordinance and brought back to Council. The motion was adopted by the following vote:

Ayes: Kruger, Wharton, Meurer, Mayor Hall, Friedmeyer, Schoen, Schmidt

Nays: None

Discussion was held on extending the current moratorium for three months (120 days) on the crystalline silica sand mining and processing portion.

Councilpersons Friedmeyer and Schoen moved to extend the portion of the moratorium referencing crystalline silica sand mining and processing for three months (120 days). The motion was adopted unanimously.

Councilperson Friedmeyer stated he feels extending the moratorium on that section is justifiable.

Councilperson Wharton asked that all concerns or amendment requests on the mining ordinance be forwarded to City Administrator, Chad Springer, who will forward to the Planning Commission.

Chad stated an amended contract for Molly Patterson-Lundgren's time on the Mining Ordinance will be brought back to the next Council meeting.

Chad reminded Council to be mindful of Open Meeting Law regulations when sending out information via email etc. and he will be forwarding information on Serial Meetings and Open Meeting Laws to the Council in the near future.

Having no other business, Councilpersons Wharton and Kruger moved to adjourn at 9:48 pm.
Adopted unanimously.

Susan Schamaun, City Clerk