

**CITY COUNCIL  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

The Ramsey City Council conducted a special meeting on Tuesday, April 5, 2011, in the Lake Itasca Room at Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Bob Ramsey  
Councilmember Randy Backous  
Councilmember David Elvig  
Councilmember David Jeffrey  
Councilmember Colin McGlone  
Councilmember Jason Tossey  
Councilmember Jeffrey Wise

Also Present: City Administrator Kurtis G. Ulrich  
Deputy City Administrator Heidi Nelson  
Director of Public Works Brian Olson  
Senior Planner Tim Gladhill  
Human Resources Representative Colleen Lasher  
City Attorney William K. Goodrich  
Management/Planning Intern Patrick Brama  
Development Manager Darren Lazan

**CALL TO ORDER**

Mayor Ramsey called the special meeting of the City Council to order at 5:30 p.m.

**CITIZEN INPUT**

None

**APPROVE AGENDA**

Motion by Councilmember Jeffrey, seconded by Councilmember Tossey to approve the agenda as presented.

Motion carried. All in favor.

**COUNCIL BUSINESS**

**4.1) Review Power by Karl Agreement**

City Administrator Ulrich reported that he and the City Attorney met with Power by Karl owner Karl Jansen and drafted an agreement.

City Attorney Goodrich reviewed the provisions of the agreement. He noted that Karl has incorporated into TK Enterprises, LLC. He stated that this use has to have a public purpose and it does – it will be a potential source of revenue for the Happy Days celebration. The City does not want to be a partner nor a co-owner – we want to be a leasee who happens to get return via the profit sharing. To Council he stated that your number one obligation is not to this agreement – it's to look to see that the ordinance is complied with and whether or not you grant that. He emphasized what Council has to look at to issue the CUP. One hundred dollars would be the base rent and then there would be profit sharing. They would add up the revenue and deduct the expenses and what's left, TK will get 50 percent and the City will get 50 percent. That does not include things they might sell at the site, including beverages, etc. This is only for fees to see the race as well as the entry fees to be allowed to race.

Karl Jansen stated we will split everything except the concession money as that will be done by a private party.

Mr. Goodrich continued that Mr. Jansen has identified the following categories - \$5 to watch the race, \$20 to drive in it, \$10 for a pit pass and \$10 for race staff. There may be 14 races per season with about 40 people attending the race.

Mr. Jansen suggested this could net \$16,000 to \$33,000 depending on how many show up – so for the City's half – it could be anywhere from \$8,000 to \$16,000 or so.

Mr. Goodrich added that the \$100 monthly rent would be deducted from that.

Mayor Ramsey reminded Mr. Jansen that the vendor that will sell concessions will have to contact the City to get a license/permit to do so.

The group talked briefly about “kitty kat” races in the winter, as well as a couple of lawnmower races.

Mayor Ramsey presented the scenario of what if the government gives us \$30 million to do Highway 10 improvements tomorrow – what happens.

Mr. Jansen stated that he has agreed to a six-month termination clause.

Mr. Goodrich added that this is a 36-month lease – Mr. Jansen has identified that he may want to do winter events three or four times per year, such as the little kids events (kitty kat races) and possibly four lawnmower events per summer. It totals approximately 20 events per year.

Councilmember Backous inquired what Acapulco and other businesses in the area are expecting for the number of events.

Mr. Jansen stated that we have talked with them about the numbers – an event about every other Friday night.

Councilmember McGlone stated he asked the Manager at Acapulco and they asked when they could go over to the area with a banner.

Councilmember Elvig stated he always has to question what profit is and that he would like to see a baseline and projection.

Mr. Jansen replied they do have that.

Councilmember Elvig asked what our monitoring protocol is.

Mr. Goodrich stated TK will prepare that information for the City.

Councilmember Elvig suggested maybe spelling it out quarterly per year.

Mr. Jansen stated he is open to whatever.

Mr. Goodrich offered to put some dates in the agreement for that.

Discussion ensued relating to parking and the areas that would work.

Mr. Jansen added they will try to assist with parking as well.

A representative of TK Enterprises stated their plan was to have signage made that would specify spectator parking, pit parking, etc.

Discussion ensued relating to excessive noise and how it will be gauged.

City Administrator Ulrich stated that this IUP will be addressed by the Planning Commission. The process will be gone through and the standards will have to be met.

City Attorney Goodrich stated that with regard to the potential contamination – subject to the City Engineer – this project can go forward without any problems regarding the contamination.

Councilmember Elvig stated that if we have some complaints, we need to be strong – we cannot have two complaints and then shut this down.

Mr. Jansen talked about some of the things they will do to help against the noise, etc.

Councilmember Jeffrey asked, with regard to the possible contamination, if it is proper to notify the previous owner that they may be on the hook for something.

Mr. Goodrich replied they know that as they have signed an indemnification agreement.

Motion by Councilmember Jeffrey, seconded by Councilmember Elvig to authorize entering into an agreement with Power by Karl, subject to the City Attorney's approval.

Motion carried. All voted in favor.

#### **4.2) Introduce Ordinance to Amend City Subdivision Code related to Financial Sureties for Required Improvements**

Senior Planner Gladhill stated that the City has been approached by a developer and asked to explore other forms of surety to ensure that required improvements as defined in City Code are completed in a timely manner consistent with approved plans. He summarized the City's current policy/standard procedure – cash surety or letter of credit in the amount of 125 percent of the cost of required improvements. For petitioned projects, Code requires a financial guarantee of 20 percent of the cost of the project over the life of the assessment. Mr. Gladhill pointed out that cash sureties or letters of credit are common tools for cities to ensure timely completion of the required improvements. This ensures, in the event of default of the developer, that the City has adequate financial resources to complete these necessary public improvements. One method suggested was to agree to hold the required Certificate of Occupancy until required improvements are completed. Under this scenario, a building would not be occupied until the required improvements were completed. The City could then collect a financial surety in the amount of 125% of the remaining/uncompleted required improvements if a Certificate of Occupancy. He noted that the Certificate of Occupancy is legally tied to only the building code and extends only ten (10) feet beyond the foundation of the building. The Building Official has stated this scenario would only be viable if the developer agreed to withhold the Certificate of Occupancy within the Development Agreement/Contract, which would be recorded against the property. This way, the City has a legal avenue to withhold the Certificate of Occupancy for activities not ordinarily part of the Certificate of Occupancy. Mr. Gladhill stated that a concern with this scenario is in the event of developer default once a Building Permit has been issued but before a Certificate of Occupancy is issued. He continued that this may be a tool to spur economic development; however, the City should take care to ensure that the City is protected in the event of developer default. The City has had to, on occasion, call on these financial sureties even after construction has commenced and certificate of occupancies have been issued within a project. The City needs to ensure that the City will not end up being responsible for completing required public improvements without a financial surety to pay for these improvements. Mr. Gladhill stated that staff researched a small sample of metro cities with experience dealing with financial sureties. Each of these three communities, based on staff's interpretation of these codes, required a financial surety of at least the amount of the required improvements until such time the improvements were completed.

City Attorney Goodrich stated that as staff reviewed our provisions, it was evident this was drafted some years ago and addressed mostly residential. To cover this and give us more flexibility we will propose the language in the draft ordinance. This would not be allowed the way the Code is written now.

Councilmember Elvig asked if it is only one developer asking for this.

Mr. Gladhill noted that this was received as a request from Legacy Christian Academy. We hear a lot of feedback from other developers asking us to streamline and to look at the sureties as well. We have been flexible in reducing that letter of credit.

Mr. Goodrich cautioned this is a special meeting – we have identified this one subject so we will be a little constrained to talk about one development. We will put this on the work session in the future to be able to lay out more

Senior Planner Gladhill stated we are bringing this forward because of the timeline. It will be brought back for formal adoption.

Councilmember Wise stated he did not like not allowing occupancy. If weather prohibits landscaping, etc., they should still be able to occupy their building. He added that now that he hears we can reduce the letter of credit as we go, we can streamline what we are doing but he is not interested in giving up any financial backing.

Councilmember Backous asked for an example which Mr. Gladhill provided the following: If a project we have identified needs an extension of roadway and the project to the west needs that roadway as well, it might be one project waiting for another. There might be a lapse between when we let the plat for recording – it's when the Certificate of Occupancy is given.

Director of Public Works Olson explained that in order to receive a Certificate of Occupancy when there is a lapse between the time the improvements can be completed – they will be required to provide a surety/letter of credit to cover these improvements. With regard to the assessment portion – we say we cannot go past five years; however, the State allows 20 years. To make them pay this off within five years, that percentage could create a substantial hardship.

Councilmember Elvig stated he has no problem with helping a certain developer but looking at changing the overall ordinance – he wasn't sure about. The best thing we can have to protect the City is cash.

Attorney Goodrich stated that in order for the City to negotiate and have some flexibility, we need to change the ordinance unless we want to do that for every specific item. We are not proposing that we even do any changes – we are saying this gives us the ability to do that.

Mayor Ramsey stated that this gives Council some more flexibility. We want to be a little more friendly to developers and removing some barriers that seem to exist – he has no problem with that.

Mr. Goodrich added that staff will be going through each item.

Councilmember Jeffrey stated this is introduction tonight and prior to adoption, we will have that discussion.

Mr. Goodrich explained that the plan is to adopt this ordinance on April 12, for an effective date of May 12. We will have a work session to discuss the final terms that we have arrived at for the development agreement but that agreement will not be signed until we get the bids. They may not go forward until they see what the bids are and we may not want to either. All this will come together near the end of May.

Director of Public Works Olson reiterated that adoption of this ordinance allows the Council more flexibility.

Motion by Mayor Ramsey, seconded by Councilmember Jeffrey to introduce the ordinance amending the City's subdivision ordinance related to financial sureties.

Further discussion: Councilmember Elvig stated he still had some concerns. The problem we run into is entrepreneurs are optimistic and find themselves short of cash but the City needs to be cognizant of this. He expressed concern of when it would get used and when it does not get used. Mr. Gladhill stated that if any more information is required by Council, to please contact staff. We need to address the assessment timeframe and we can talk more about sureties. Councilmember Elvig stated that he would like a handful of examples of what Mr. Olson has wrestled through with projects and how that would work with our new model. Mr. Olson reiterated that we are not proposing changing anything in our subdivision Code – only giving Council more flexibility to waive. Councilmember Wise stated he did not want to have to be based strictly on a dollar amount. Maybe have it be a percentage or something like that. He did not want to penalize the “little or the big” guy – he wanted there to be an even playing ground. Mr. Goodrich stated that the system is not geared to the viability of development – it's to assure public funds are protected. It was noted that the Planning Commission would hear this prior to the City Council meeting on April 12.

Motion carried. Voting Yes: Mayor Ramsey, Councilmembers Jeffrey, Backous, Elvig, McGlone, Tossey and Wise. Voting No: None.

## **MAYOR/COUNCIL/STAFF INPUT**

### **City Administrator Performance Review**

Human Resources Representative Lasher stated she emailed the City Council regarding Mr. Ulrich's annual performance review – to be completed by April 15. However, new Councilmembers have only worked with Mr. Ulrich since January so she wondered if Council would like to delay the review until June or so.

City Administrator Ulrich stated he has no objection to delaying the review to June or July.

Councilmember Tossey indicated he had no problem and felt that would be a good idea.

Councilmember Backous felt that was fair to both the new Councilmembers as well as the City Administrator.

Ms. Lasher stated she would bring it forwards and pick a date between June 1 and July 31.

### **Tour of Rail Stations**

City Administrator Ulrich stated that he found out today that the NSCA is planning an event on May 5 – a tour of all stations along the line. Heidi Nelson and Darren Lazan will be working on that. It's a developer's bus tour and he suggested Council will be welcome and invited as well. They will spend about 15 to 20 minutes at each stop. That will allow us to give our pitch to developers and a chance to showcase The COR.

### **Definition of Staff Roles**

Mayor Ramsey stated he would like Council to define what staff's roles – our developer roles and our City roles. Questions need to be addressed to the right people - Heidi, Darren or Kurt. For example, when it comes to development – questions should be addressed to Heidi. He stated he would like to either have this discussion now or at an HRA meeting – or schedule it for a work session.

Councilmember Elvig suggested it be done at a Council work session and not the HRA.

### **ADJOURNMENT**

Motion by Councilmember Jeffrey, seconded by Councilmember Wise to adjourn the Special City Council meeting.

Motion carried. All voted in favor.

The special meeting of the City Council adjourned at 6:15 p.m.

Respectfully submitted,

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Kurtis G. Ulrich  
City Administrator

### **ATTEST:**

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Jo Ann M. Thieling  
City Clerk

*Minutes drafted by Jo Thieling, City Clerk*