

WAITE PARK CITY COUNCIL SPECIAL MEETING**May 27, 2020****1. CALL TO ORDER**

A special meeting of the Waite Park City Council was held via ZOOM Video Chat on Wednesday, May 27, 2020, beginning at 5:00 PM.

MEMBERS PRESENT

Members on the video were Mayor Miller, Councilmembers Linquist, Schmitt, Schulz, and Theisen

CITY REPRESENTATIVES PRESENT

City Representatives on in the meeting were City Administrator Johnson, Chief of Police Benrud, Planning & Community Development Director Noerenberg, Deputy Clerk-Treasurer Virnig, City Attorney Storm, Fire Chief Aleshire, Planning & Building Administrative Associate Brenny.

OTHERS PRESENT

None

2. PLEDGE OF ALLEGIANCE**3. COUNCIL AGENDA**

Mayor Miller stated the three topics that were on the Council's agenda.

1. Interim Ordinance – Outdoor Seating
2. Hiring Fire Fighter Candidates
3. Emergency Declaration and Update on COVID-19 Plan

4. REGULAR AGENDA ITEMS**4.A. INTERIM ORDINANCE – OUTDOOR SEATING**

On May 20th, 2020 Governor Tim Walz announced new allowances authorizing certain food establishments to re-open outdoor seating at reduced capacity, effective June 1st, 2020. City Staff has already had contact with a number of businesses looking to either create or expand outdoor seating on a limited basis until the State allows additional reopening. After review and consultation with City Staff and the City Attorney, it has been determined that the relaxation of certain City zoning, building code, and/or alcohol service regulations associated with the establishment of outdoor seating areas would be in the best interest of the City and local businesses during this unprecedented time.

A draft interim ordinance was presented for review and consideration. Adoption of the ordinance would allow the Planning and Community Development Director to administratively approve plans for outdoor seating based on submittals from businesses, at no charge to them.

Member Linquist questioned if bars that serve food can serve food in the bar area. Members clarified that bars and restaurants are only allowed to serve customers outside per the Governor's orders.

Planning & Community Development Director Noerenberg explained the reason for the interim ordinance is to relax regulations for bars and restaurants to be able to serve customers outside, potentially in parking lots and other areas. The interim ordinance would require businesses to submit site plans that shows how they will set up tables and barricade the area while abiding by the Governor's orders along with other basic information. This interim ordinance would be in place up to a year unless orders are changed earlier.

Member Schulz asked what happens if the Governor's emergency powers terminate, while this ordinance and the City's emergency declaration are still in place. Attorney Storm explained that the temporary ordinance is in effect until the City Council determines it's no longer necessary or restrictions to occupancy of food establishments imposed by the Governor's COVID-19 Pandemic Executive Orders are lifted.

Planning & Community Development Director Noerenberg stated that he has been in contact with about seven or eight establishments about this.

Member Schulz asked why the Council doesn't tie this directly to the Governor's orders so that they won't have to take any other action on it. Member Schmitt stated he felt the City needs to keep its

4.A. INTERIM ORDINANCE – OUTDOOR SEATING (Cont.)

options open. Mayor Miller confirmed that's what the temporary Ordinance says, that when the Governor's orders change, ultimately the temporary ordinance becomes void.

Member Linquist asked if bars were able to reopen. Members confirmed saying they could open if they provide outdoor seating. Planning & Community Development Director Noerenberg explained that the City doesn't have any bars that don't serve food.

Member Theisen moved to approve the Interim Ordinance – Outdoor Seating, seconded by Member Schulz.

Ayes: Members Linquist, Miller, Schmitt, Schulz and Theisen

Nays: None

Abstain: None

Absent: None

Motion passed unanimously.

4.B. APPROVE APPOINTING THREE FIRE FIGHTERS

Member Linquist moved to approve the hiring of the three individuals, seconded by Member Schmitt.

Ayes: Members Linquist, Miller, Schmitt, Schulz and Theisen

Nays: None

Abstain: None

Absent: None

Motion passed unanimously.

4.C. REVIEW OF EMERGENCY DECLARATION & UPDATE ON COVID-19 PLAN

The City Council adopted an Emergency Declaration in March and then chose to extend it to respond to the COVID-19 Pandemic and provide for the ability for the City Council, and other boards and commissions to meet remotely. The Emergency Declaration is essentially in effect until 1) the Governor's Peacetime Order expires, or 2) City Council takes action to rescind the Declaration. The Governor's Peacetime Order has been extended until June 12, 2020. While the Governor has lifted some restrictions and allowed some retail establishments to re-open with plans in place, bars, restaurants, gyms, salons and barber shops will now be allowed with limited operations.

There has been discussion about making some changes to the Emergency Declaration. With this, the City Council will need to consider collectively whether they would like to take any action on the City's Emergency Declaration at this time and if so, determine what date they would like this to be effective. The City Council is under no obligation to take any action if they do not want, but the decision is the Council's to make. The Council could also amend the Emergency Declaration to allow for in-person meetings. If the direction is to do this, a date should be determined as to when these meetings could resume.

Member Schmitt asked when the next Council meeting would be. City Administrator Johnson estimated that it would be either June 8th or June 15th, but most likely the 15th.

Member Schulz expressed that he hasn't been in favor of the emergency declaration since the beginning and doesn't feel that they are following the City's own emergency ordinance. Member Schulz would like to begin in-person meetings to discuss what is going on and feels there is plenty of room to distance themselves in the council chambers. Member Schulz also expressed that City Hall is set up to be back to work while distancing. Member Linquist agreed he would like to see people back to work earlier than the 15th of June and no later than June 3rd and believes the preparation is minimal with the simple rules that are to be followed. Member Linquist expressed that he didn't feel the emergency ordinance was followed correctly. Member Linquist would like to remove the emergency declaration to begin meeting in-person at work sessions to discuss these items. Member Linquist thinks the declaration should state opening up City Hall June 3rd, and to go back to in-person meetings.

City Administrator Johnson clarified that City Hall opening and the emergency declaration are two separate items that do not affect each other. She also asked what items haven't been followed correctly in terms of the emergency ordinance. Member Linquist stated the emergency declaration expires after 30 days or at the end of the emergency episode whichever is earlier. Mayor Miller stated he didn't see where it said 30 days. Member Linquist stated the section in the ordinance. Mayor Miller read that the emergency declaration will be in place until the Council removes it or terminated by the Governor.

4.C. REVIEW OF EMERGENCY DECLARATION & UPDATE ON COVID-19 PLAN (Cont.)

Member Linquist stated that wasn't in accordance to the ordinance. Mayor Miller stated that was the Council's resolution.

Attorney Storm clarified by stating in Subdivision 3, that provision says that the City Council may rescind any emergency regulation by resolution at any time. Attorney Storm stated that the resolution isn't regulated by the ordinance with the 30-day expiration window. Attorney Storm asked if there was a certain regulation they were worried about, for instance meeting via Zoom and not in-person, that is not a regulation that was created through the ordinance. That was through MN Statutes that stated if you are going to conduct meetings remotely you have to have a compelling reason and somebody has to declare that, which was the Mayor in this instance. Attorney Storm stated there is no regulation under the ordinance that is subject to the 30 days.

Member Schulz stated he would like Attorney Storm to address 23.6 Subdivision 1 in the ordinance. Member Schulz doesn't understand why the City would have adopted more than the Governor when the City doesn't have the science and the data; why does the City need to have a City emergency declaration in place when we have the Governor's emergency.

City Administrator Johnson stated it might be best to have Chief of Police Bentrud explain as the emergency declaration came about because of the Chief's recommendation. Chief of Police Bentrud explained that he brought up at a staff meeting the idea of declaring a city emergency, primarily because FEMA might look for that as a criterion to determine whether the City could be reimbursed for items purchased related to COVID-19. Chief of Police Bentrud stated he was just notified that FEMA is allocating funds toward COVID-19 relief, which Waite Park would be eligible for. Chief of Police Bentrud is uncertain if the emergency declaration was required by FEMA, but felt it would good practice to do what the City did. Member Theisen agreed that this is exactly why the Council did the emergency declaration, to have in place for big expense reimbursement and feels there is still no reason to end the emergency declaration. Member Schulz stated he doesn't think it makes sense for the emergency declaration to be tied to funding reimbursements. Member Schulz also doesn't feel like Chief of Police Bentrud has been carrying out the duties outlined in the emergency declaration and feels the ordinance needs to be reviewed.

City Administrator Johnson asked Chief of Police Bentrud to explain the difference between the emergency declaration and the emergency ordinance in place to help alleviate any confusion. Chief of Police Bentrud stated that if you look at the Emergency Operation Plan, the chain of command for the Chief of Police as emergency manager is the Mayor, Acting Mayor, City Administrator, and Finance Director. To Chief of Police Bentrud, this emergency is not the same as it would be if, per say, a tornado or other type of natural disaster or attack, where just because the Chief of Police is the Emergency Manager doesn't make him above anybody else. He also stated the key word is probably emergency operating center. The City declared an emergency but did not activate the emergency operation center. The government was still able to function, even if that was remotely. Chief Bentrud stated that what the City has done is consistent with the emergency operating plan. Chief Bentrud stated if inconsistencies are being found between the emergency operating plan and the ordinance, then the ordinance should be altered.

Member Linquist stated when this all started the Council should have had a work session to better understand how all of these plans work together to eliminate the confusion. Chief of Police Bentrud explained the key terms is Emergency Operation Plan, for example if City Hall was wiped out by a tornado, local government could not function, that is a situation where emergency operations would have to take over, but even as an Emergency Manager, the Chief of Police is not put above the chain of command.

Member Schulz pointed out 23.2 Subdivision 1 stated public health and medical, which is the reason the Council put the emergency declaration in place, which is clearly assigned to the Chief's responsibility. Member Schulz feels there are some great disparities between the ordinance and the declaration that was passed.

Mayor Miller didn't feel these issues were going to be resolved during the meeting. Member Theisen expressed that he didn't agree with Members Linquist and Schulz. Member Theisen expressed he's never liked work sessions as he doesn't feel they are as transparent as Council Meetings and the public doesn't see those discussions like they would at a Council meeting. Mayor Miller stated that he didn't understand the problems with the resolution; if Council would like to amend the emergency

4.C. REVIEW OF EMERGENCY DECLARATION & UPDATE ON COVID-19 PLAN (Cont.)

declaration to allow in-person meetings again, then that's what the Council should do. Member Schulz agreed he would like that to be done. Member Linquist also agreed and stated he would like to get back to work sessions. Mayor Miller stated that the Council can amend the resolution to state that the Council will meet in-person starting on whatever date decided.

Member Linquist moved to amend the emergency declaration resolution to go back to meeting in-person effective June 1st, seconded by Member Schulz. Attorney Storm stated that the Council can amend the resolution to the terms stated. City Administrator Johnson asked if that should include other boards and commission as well. Attorney Storm clarified that when the emergency declaration was put into place it included all City boards and commissions to have meetings remotely. Mayor Miller stated he thought the intent would be for all meetings to go back to in-person meetings. Member Schulz asked if that was Member Linquist's intent with his motion. Member Linquist agreed that he would change his motion to include all City meetings would go back to in-person meetings. Member Theisen expressed that he would like to leave the emergency declaration just the way it is. Member Schulz stated he would amend the motion to the date of June 15th. Member Linquist stated he wouldn't change the motion. Member Schulz stated he withdrew his second to Member Linquist's motion. Mayor Miller stated the motion dies since there isn't a second.

Member Linquist moved to amend the emergency declaration resolution to have all City meetings in-person effective June 15th, seconded by Member Schulz. Mayor Miller clarified that the June 15th meeting would still be done via Zoom.

Ayes: Members Linquist, Miller, Schmitt, and Schulz

Nays: Member Theisen

Abstain: None

Absent: None

Motion passed 4-1.

City Administrator Johnson then presented the Council with the plan to reopen City facilities. The plan is based off the Governor's orders, the League of MN Cities suggestions and taking into consideration what other surrounding cities are doing. City Administrator Johnson said after internal staff discussion, it was proposed to start opening City Hall from 9 am – 1 pm starting June 1st through June 12th. City Administrator Johnson did explain that per the Governor's orders that if there is an ability to work from home that people should be. Then, starting June 15th having City Hall open full time; the Park Pavilion, under the Governor's orders, is still required to be closed; the play ground and exercise equipment is a "use at your own risk"; the splash pad, under the Governor's orders, is to remain closed; baseball fields can have up to 10 people practicing; the current plan is to open two of the six pickleball courts; potentially having bathroom facilities open near the pickleball courts and community park. City Administrator Johnson stated a lot of time and thought went into putting this plan together and feels this is a good plan that covers all of the facilities.

Member Linquist asked for clarification regarding pickleball courts and if all parks would be open again. City Administrator Johnson stated that two of the pickleball courts would be open as soon as they can get the nets up and since the City is not doing any disinfecting that all park equipment is a "use at your own risk", which signs will be indicated.


Member Schulz expressed he was very supportive of the plan.

Member Linquist stated he would like to see City Hall open with the limited hours on June 1st. City Administrator Johnson stated the park equipment would be open as soon as the signs were picked up and installed, which would hopefully be around June 1st.

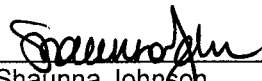
Member Schulz thanked City Administrator Johnson for her perseverance. City Administrator Johnson said thank you and there has been a lot of support of all departments and staff.

ADJOURNMENT

Mayor Miller declared the meeting adjourned at 5:53 PM.



Richard E. Miller
Mayor



Shaunna Johnson
City Administrator

