

**CITY OF PARK RAPIDS
CITY COUNCIL MEETING
APRIL 28, 2020, 6:00 PM
Park Rapids City Hall Council Chambers
Park Rapids, Minnesota**

Pursuant to Minnesota Statutes 13D.021, Subdivision 1(1), the City of Park Rapids has determined that in-person meetings of the Council are not prudent during the COVID-19 health pandemic/peacetime emergency declared by the Governor's Executive Order No. 20-01 under Minnesota Statutes Chapter 12. As such the following City Council meeting during such state of emergency was held by telephone, and the presence of the Councilmembers and the public at the meeting was not feasible.

1. CALL TO ORDER: The April 28th, 2020, Regular Meeting of the Park Rapids City Council was called to order at 6:00 p.m. by Mayor Ryan Leckner, and the Pledge of Allegiance was recited.

2. ROLL CALL: Present: Mayor Ryan Leckner (**in person**), Councilmembers Tom Conway, Erika Randall, Liz Stone, and Robert Wills (**by phone**). Absent: None. Staff Present: Administrator Ryan Mathisrud (**in person**), Planner Andrew Mack and Clerk Margie Vik (**by phone**). Others Present: Attorney Brian Peltier and Essentia Health Representative Sarah Gustafson, T.J. Simon, Diane Dennis, and Robin Fish from the Enterprise (**by phone**).

3. APPROVAL OF AGENDA: A motion was made by Stone, seconded by Conway, and unanimously carried to approve the agenda with the following additions:

- 7.6. **Resolution to Authorize Execution of the Cooperative Fire Protection Agreement By and Between Minnesota Department of Natural Resources – Division of Forestry and the City of Park Rapids.**
- 7.7. **Authorize Advertisement and Interviews for Part Time Liquor Store Clerks.**
- 7.8. **Resolution Appointing Tina Jenkins as Part Time Rapids Spirits Liquor Store Clerk for the City of Park Rapids.**
- 10.5. **Restaurant Sidewalk Cafes during COVID-19.**

4. PUBLIC HEARING AT 6:00 PM:

A motion was made by Wills, seconded by Conway, and unanimously carried to open the public hearing at 6:05 p.m.

4.1. Essentia Health Proposed Project and the Issuance of Private

Activity Bonds: Mathisrud questioned do we have a presentation from Essentia Health? Brian Peltier stated I'm representing Fry Berger Law Firm. We are bond consul to the Duluth Economic Development Authority issuing the bonds. Sarah Gustafson stated I'm here with Essentia Health.

Peltier stated the project is an out-patient facility at 24,000 square feet. It's going to be financed as part of a larger financing that's going to be paid for by the issuance of bonds by the Duluth Economic Development Authority. The location will be at 1103 First Street East, which is the old Pamida building. With this consent approval, under Minnesota law it requires any jurisdiction in which bond proceeds are going to be spent needs to issue their consent, as well as under federal tax law there needs to be consent in order for the bonds to be issued.

Mathisrud stated my understanding is that this issue does not affect the city's bond rating. This requires city consent so that you can move forward. Peltier stated that is correct. It doesn't affect the city's bond rating at all. It just acknowledges the revenues will be used for Essentia Health.

Leckner requested comments or questions from any members of the public listening. There were no comments.

A motion was made by Stone, seconded by Wills, and unanimously carried to close the public hearing at 6:09 p.m.

4.2. Resolution Approving a Project by Essentia Health and Consenting to the Issuance of Tax-Exempt Obligations by the Duluth Economic Development Authority: A motion was made by Randall, seconded by Wills, and unanimously carried to approve Resolution #2020-81 Resolution Approving a Project by Essentia Health and Consenting to the Issuance of Tax-Exempt Obligations by the Duluth Economic Development Authority.

5. APPROVAL OF MINUTES:

5.1. Park Rapids City Local Board of Appeal and Equalization Meeting Minutes-April 9, 2020: A motion was made by Wills, seconded by Stone, and unanimously carried to approve the April 9th, 2020, Park Rapids City Local Board of Appeal and Equalization Meeting minutes as presented.

5.2. City Council Regular Meeting Minutes-April 14, 2020: A motion was made by Wills, seconded by Randall, and unanimously carried to approve the April 14th, 2020, City Council Regular Meeting minutes as presented.

5.3. City Council Emergency Meeting Minutes-April 21, 2020: A motion was made by Stone, seconded by Randall, and unanimously carried to approve the April 21st, 2020, City Council Emergency Meeting minutes as presented.

6. FINANCE:

6.1. Payables & Prepaids: A motion was made by Randall, seconded by Stone, and unanimously carried to approve the payables in the amount of \$23,584.12, and the prepaids in the amount of \$388,177.57, for a total of \$411,761.69.

7. CONSENT AGENDA: A motion was made by Stone, seconded by Wills, and unanimously carried to approve the following consent agenda items:

- 7.1. Resolution #2020-82 Appointing Tim Little as a Temporary Seasonal Public Works Utility Maintenance Worker for the City of Park Rapids.
- 7.2. Approve Purchase in the Amount of \$3,617.60 for a New Set of Turn Out Gear for One (1) Firefighter for the Park Rapids Fire Department.
- 7.3. Resolution #2020-83 Authorizing the Disposal of Surplus City Property from the City of Park Rapids.
- 7.4. Approve Purchase in the Amount of \$1,650.00, the low quote, from Midwest Playscapes for Wood Chips for around the City's Playground Equipment, for the Parks Department.
- 7.5. Accept Low Bid in the Amount of \$3,250.00 from Mobile Ready Mix for Sidewalk Repairs to the Rapids Spirits Liquor Store.
- 7.6. Resolution #2020-84 Authorization to Execute the Cooperative Fire Protection Agreement By and Between Minnesota Department of Natural Resources – Division of Forestry and the City of Park Rapids.
- 7.7. Authorize Advertisement and Interviews for Part Time Liquor Store Clerks.
- 7.8. Resolution #2020-85 Appointing Tina Jenkins as Part Time Rapids Spirits Liquor Store Clerk for the City of Park Rapids.

END OF CONSENT AGENDA

8. COMMENTS FROM CITIZENS: There were no comments.

9. PLANNING:

9.1. Second Reading of Ordinance to Amend the Park Rapids City Code of Ordinances Regarding Short Term Rentals:

Andrew Mack stated this is the second reading of the ordinance regulating and establishing new licensing and permit requirements for short term rentals. I went through a fairly lengthy explanation at the last meeting on the proposed changes. The update on this item is we had one citizen from the business community, two weeks ago, attempted to call in and speak to this item but was unable to do so. We have placed this item on the agenda for discussion so if there are any members of the public that would like to speak could do so now.

Leckner requested comments from the public. T.J. Simon stated I appreciate all of the hard work that has been done on this. It was very well thought out. There's only one item that I have questions on and that's the buffering standard of no less than the five hundred feet. I understand not wanting to create a situation where we have a party row. There's a lot of other things in this ordinance that's going to alleviate some of that by regulating who's going to be able to do that and by having that three strikes and you're out kind of thing. But if one person gets it on the block and then the neighbor wants to do it they're not allowed at that point. It has nothing to do with them, it's just that someone else got in there first. It makes it very difficult for the property owners from that aspect. I'd like to see that taken out and changed to allow any property owner to do that. Then regulate it through your nuisance violations with the three strikes and you're out. Then you won't have to do anything with the grandfathering.

Simon stated I'd like a clarification. The ordinance reads one rental per day and use of short term rental for any commercial or social event. I assume you are trying to make sure there are no additional people or any nuisances through that. When I looked back on some of your reasons, it didn't indicate what those might be. If I have a short term rental and I have a BBQ, is that considered a social event? What is commercial? That would have to be spelled out. I question your explanation of rentals. It says the leasing of a rental unit to a non-owner for a fixed or non-fixed period of time shall include lease to buy, contract for deed, installment sales, purchases whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory repossession procedure or other similar procedure. Does that read that if they have a contract for deed that's been recorded, so that we know that it's recorded, that is considered a statutory cancellation so they'd be okay to rent it out as a short term rental even though the person was the contract for deed? Is that correct?

Mack stated on the contract for deed provision, a form of legal status of ownership, that permit for the short term rental and licensing of the rental, again, a parallel permit process, one is the license and the other is an annual permit, that application and permit would run with the applicant. In the event there is some cancellation of contract, then the underlying fee owner as a part of that contract cancellation would be responsible for renewing that permit and they could do that as a part of a seamless process upon official contract cancellation and documentation of proving that is the case. It won't automatically transfer into underlying owner. Simon stated that does answer the question.

Mack stated I believe the intent of a standard in the ordinance was to get away from a short term rental tenant. The rents are per day, which could be for several days up to twenty-nine days consecutively. The intent is the license holder for the rental and the

parallel permit holder for the short term rental would only be allowed to rent this for the purposes of individual use. Then it could not be used for a reception hall, or various wedding events, or to a commercial company for hosting events, or a family reunion. You couldn't put on an event where you invite several other unrelated people to the place. You couldn't set up a tent in the yard and do a wedding reception. Things of that nature that might otherwise occur in rented hall space within the community. I believe that's exactly what this provision is getting at. That's also the reason why the annual permit holder has to keep a list of who has rented the property along with their contact information. This doesn't mean that they can only rent it for one day. It can be multiple days, but in terms of who can occupy, that's what this is getting at.

Simon stated social events should be defined as to exactly what that might be. If someone is having a few people there for a BBQ, and not causing a nuisance is it considered a social event at that point or not? It's in the eye of the beholder. Mack stated point taken. I don't believe that has been fully defined in detail. That's something that could be looked at closer. We can elaborate on that in the rental guide. I don't see a stop point on the ordinance for that, although we can run this by the city attorney if there's further need to define that on a legal basis, in regards to enforcement.

Mack stated as to the buffering standard I appreciate the concern that was expressed. The Planning Commission deliberated this point on numerous occasions over the last twelve months. There was a compelling case that the Commission made in producing this recommendation for the City Council. The grandfather clause was put in so that we could essentially recognize the folks that have already started this in the community so that we are not creating a hardship on someone that is already invested in this type of rental set up. The license rental is the key in terms of the line in the sand of whether or not they fall within the grandfather clause. I would carefully consider the last point, and that is we built into the buffering standard a variance provision so that if we do have a situation where two units are close, and it's not going to become an issue based on the concerns of a party row scenario, that there would be some discretion. There could be an appeal made for an exception that would eventually follow the same process as a variance hearing by the Planning Commission who would make a recommendation to the City Council.

Mack stated that was the Planning Commission's recommendation. If for any reason, the City Council would choose to take into consideration, the buffering standard, it would be my recommendation that the Council should refer it back to the Planning Commission to conduct a new hearing. That's not staff's recommendation at this point. My recommendation would still stand at this point. We will work with the real estate community and with prospective buyers to clearly address this. There will be an inventory taken, a map will be created which will become public information and be easily accessible by the public. That's how we intend to implement and administer this. We can create a clarification in a citizen guide to address making applications for permits and a provision for the cancelation of ownership. That would be the staff's response. Simon stated I thank Mack. He's had great information and conversation about this. I appreciate it.

Diane Dennis questioned going back to the contract for deed sale being included in the rental, and with the five hundred foot buffer that you've got, I totally appreciate what you are doing and how hard everyone has worked on this, but if you have a current property owner who has their home sold on a contract for deed, and a neighbor wants to apply for a short term rental permit right next door, then that will not be approved? Mack

stated the application can certainly be entertained. What will be the deciding point will be the actual issuance of the permit. That permit would run on an annual calendar basis. It would be up to the property owner to renew that annually. In the event that they don't renew the annual permit for the short term rental, even though they are a licensed rental for three years, then it would lapse, unless the property changes hands and then expires automatically upon new ownership, unless there is a seamless transition for application for the continuation for the annual permit. The answer is yes, if they have procured that annual short term permit that would be in effect and then any applications that come in after the date of issuance would essentially sit in a que for new permits. This is the intent of the buffering standard for these types of permits in a neighborhood to look out for the public safety and health of the residents of the existing neighborhood. The only other exception to that would be the prevue of City Council, upon recommendation of the Planning Commission. If it was not necessarily next door but close there is a provision in there to create an exception.

Dennis questioned just in case we have any sellers in the City of Park Rapids who want to sell their property on a contract for deed, they need to verify with the city there are no short term rentals within five hundred feet of their current property and then they also in order to sell that property on a contract for deed would be required to apply for issuance of a short term rental permit? Mack stated that's correct, with the simultaneous application of a three year rental license.

Dennis stated I have an issue with that. A contract for deed sale is not anything similar to a rental. Mack stated our rental licensing requirements have clarified in our ordinance if somebody has purchased by contract for deed that is the same as if they own the property already. So the contract for deed owner is not subject to being a tenant. They are the applicant. They have rights and standing in the land to obtain a rental license, which is the very first step for procuring a permit for a short term rental.

Simon stated on a normal purchase with a contract for deed, so the person living in the house, the buyer now wants to get a rental license they're able to get a rental license. If that goes back to the fee owner that holds the contract for deed, that's when that rental license doesn't automatically revert back to that fee owner or the original seller. When we close on the contract for deed they have a deed recorded, they're able to move through and get a license, it's doesn't matter how they purchased it, we're just talking about how it will revert back as a short term rental or a rental. It will automatically go back to the contract for deed person. Is that what we're saying? It shouldn't affect you to sell a property. You can sell a property on a contract for deed, that doesn't affect it if it's a short term rental, just that buyer, if they want to get the rental, it doesn't revert back to the original seller. Mack stated that's correct. The fee title owner is the holder of the contract for deed, if there's a default on that, that annual permit would lapse and the underlying fee owner would have to submit a new application during the calendar year to continue the balance of the annual permit. If the contract cancelation would occur before October of the calendar year, then they would be entitled to apply for a new permit and they would just pay the lesser fee amount as specified by the ordinance.

Leckner stated we need to move on. This should have been discussed at the public hearing. I don't want to take any more public comments on this, but are there anymore realtors on the line? He requested comments from the Council. There were none.

A. Resolution Approving Ordinance Amending the City Code of Ordinances of the City of Park Rapids, Chapter 34 Finances, Section 34.01, Chapter 36 Fee Schedule, Section 36.17, Chapter 152 Rentals, Sections 152.001, 152.002, 152.060, 152.061, 152.062, 152.063: A motion was made by Randall, seconded by Wills, to approve the Resolution Approving an Ordinance Amending the City Code of Ordinances of the City of Park Rapids, Chapter 34 Finances, Section 34.01, Chapter 36 Fee Schedule, Section 36.17, Chapter 152 Rentals, Sections 152.001, 152.002, 152.060, 152.061, 152.062, 152.063.

Discussion: Randall questioned at the Planning Commission meeting was there anything said by the realtors that makes you think this should be referred back to the Planning Commission for any reason. Stone stated I was going to suggest that. I think they do make a couple of good points that we should give some consideration to. Anytime you do something like this you try to imagine all the possibly scenarios, but that doesn't always happen. I would like to refer it back to the Planning Commission for more consideration.

The vote was called.

The following Councilmember voted in favor: None.

The following Councilmembers voted nay: Stone, Randall, Conway, Wills, Leckner.

The motion failed to pass.

A motion was made by Stone, seconded by Conway, and unanimously carried to refer back to the Planning Commission for further considerations, of the Resolution/ Ordinance Amending the City Code of Ordinances of the City of Park Rapids, Chapter 34 Finances, Section 34.01, Chapter 36 Fee Schedule, Section 36.17, Chapter 152 Rentals, Sections 152.001, 152.002, 152.060, 152.061, 152.062, 152.063, regarding short term rentals in the City of Park Rapids.

Discussion: Mack stated in referring this back to the Planning Commission it needs to be understood that a new public hearing will require additional costs and would be required so the Planning Commission can legally take additional public comments. Randall stated that is understood. I do want to make sure that everyone understands and appreciates the realtors speaking up and participating today, and to remind them of the opportunity to speak at a public hearing rather than at this stage, so they should keep that on their radar. Leckner stated this is a big change and we're doing the right thing by holding back and making sure we do it right so we don't have to redo it in the future.

B. Second Reading of Ordinance Amending the City Code of Ordinances of the City of Park Rapids, Chapter 34 Finances, Section 34.01, Chapter 36 Fee Schedule, Section 36.17, Chapter 152 Rentals, Sections 152.001, 152.002, 152.060, 152.061, 152.062, 152.063: Referred to Planning Commission for further considerations.

C. Approve Short Term Rental Permit Application Guide and Short Term Rental Permit Application for the Planning Department: No action taken.

10. GENERAL BUSINESS:

10.1. Resolution for Authorization to Execute Term Extension for Task Order Engineering Services Agreement and Task Order No. 16 by and between Apex Engineering Group and the City of Park Rapids: Mathisrud stated this is to authorize an extension of the task order for engineering services with Apex Engineering. We have been working with them this year for doing some work to drill the secondary well for the City of Park Rapids and our current agreement with them has expired. This action will extend the task order and allows us to continue to use their services going forward.

A motion was made by Wills, seconded by Stone, and unanimously carried to approve Resolution #2020-86 Authorization to Execute Term Extension for Task Order Engineering Services Agreement and Task Order No. 16 by and between Apex Engineering Group and the City of Park Rapids.

10.2. Resolution Authorizing Proper City Officials to Execute the Authorization for Professional Services by and between Toltz, King, Duvall, Anderson, and the City of Park Rapids: Mathisrud stated this is to authorize the city to enter into an agreement with TKDA for engineering services for the expansion of taxi lanes at the airport as well as creating a few developable building sites at the airport. Over the last several years the city has been out of developable lots out there. We've been working with the Airport Commission and others out there to plan to create that expansion. The city has previously required grant funds through the FAA. There were additional funds made available a couple of years ago that did not go through successfully. We're at the next step of the process, and there are funds available through the CARES Act which makes this project much more palatable in terms of the funding percentages. The understanding is we're looking at a 90% cost share. The scope of this contract would be limited to dirt work and the construction would occur at some point in the future. The Airport CIP indicates that construction would not start until next year once the necessary work is completed. The city's share would be paid with liquor store funds.

A motion was made by Stone, seconded by Wills, and unanimously carried to approve Resolution #2020-87 Authorizing Proper City Officials to Execute the Authorization for Professional Services by and between Toltz, King, Duvall, Anderson, and the City of Park Rapids.

10.3. Resolution Temporarily Suspending Utility Shutoffs, and Waiving Late Fees for 2020 Due to COVID-19 Pandemic: Mathisrud stated this is a temporary measure that is being proposed. We have just completed the first quarter utility billing cycle. There are about two-hundred and eighty-six accounts that are currently past due. Basically, people are falling behind or making their payments late. This will temporarily, during COVID-19 pandemic, waive late fees associated with the utility bills and we're proposing to suspend shut-offs during this time of uncertainty. Ultimately, any funds that we are missing can be assessed to the property owners. We will not fall short of funds, but it provides some relief for folks that are having water issues at this time. Late fees are not a significant revenue generator for the city.

A motion was made by Stone, seconded by Conway, and unanimously carried to approve Resolution #2020-88 Temporarily Suspending Utility Shutoffs, and Waiving Late Fees for 2020 Due to COVID-19 Pandemic.

10.4. Update on City Treasurer/Accountant Search: Mathisrud stated last week we conducted interviews. We're hoping to have a candidate for Council approval some time later this week.

10.5. Restaurant Sidewalk Cafes during COVID-19: Mack stated Mathisrud and I discussed this topic. I have some ideas in terms of how we might approach this. I talked to two businesses in the downtown. One is an existing business with liquor service and the other is not open yet, but will be opening during this year's tourist season. Both were highly favorable to the idea of creating an outdoor dining/seating area outside of their buildings. How we would proceed and what it would look like I can't say at this point. I've looked at other communities that have successfully done this. We could create a temporary permitting process with the location in the public street or the sidewalk adjacent to the businesses. It would be a question of if the Council wants staff to look further into this. It may come as a step by step reopening of businesses. We don't know how that is going to roll out. But the fact that we are talking about this and trying to find ways to help our local business community and looking for ways that we can support the business activity is good.

Leckner stated we talked about this at the Economic Development meeting. The county brought up the idea with social distancing and if they do open up restaurants in the near future, just to take the fear away from people if there was more seating outdoors, or maybe closing off streets so that restaurants can expand their business outside to help out the restaurant. The discussion was just for referral to staff. We don't have any ideas yet. Maybe we'll talk to some of the business owners for some ideas if this is even feasible to do. We want to look into it and to see what the Council's thoughts are on it.

Conway stated this thought intrigued me. Council Bluffs, Iowa, has this. It's extremely interesting that they can block off streets like that and set up business. It's an extremely pleasant atmosphere. I suggested yesterday to possibly do that with our Main Street on a temporary basis. I do think there are some laws and ordinances that we'd have to look at before doing it. To me it's pretty obvious that the restaurants would want us to do it, but are there any other businesses that this would interfere with if you did it. We'd be stopping the traffic. It sounds like a good idea, but I want to make sure that we're doing something that would maybe hurt somebody else.

Mack stated we wouldn't necessarily have to close an entire block. There are other creative ways to do a temporary pop-up or just capture a few parking spaces, from one to five. We don't have restaurants every door on every block, so we could have a pod effect with the closing of some parking spaces with pedestrians on the sidewalk and allow stuff to spill into the streets in terms of temporary use. We will always have to maintain an open sidewalk because we do have a busy downtown during the summer months. We also need to look at controlling the parking locations, which might be impacted by the food or liquor service. Some of this, if the Council wants to give it a try, we may not have to make a permanent law to do this, but just something on a temporary basis. It would be a low cost investment for some of our businesses to work with the City Council on getting these types of things approved on a case by case basis. We may be looking at some type of amendment or resolution for a permitted liquor license location that the Council already approves on an annual basis at the beginning of the year. The other thought is that it has to be supervised by some type of wait staff that would be overseeing and supervising the

outdoor seating under the same protocols that would be in effect inside the establishment. So there would be some measures in place for monitoring inappropriate serving of underage minors. We'd only want to make this temporary during the summer months to the end of October. We'd also want to make sure there would be additional insurance naming the city as additional insured, particularly if they were to occupy the street or sidewalk on a temporary basis.

Leckner questioned if there were any Councilmembers that had any comments. Conway stated if we are going to do this we'll have to do this quickly. If the governor would happen to open up we have to be ready so the businesses will have some idea of what they will be able to do to prepare for it, then they can start to move without waiting for us. Leckner stated I agree with that. We have to be proactive. They may not need it, but we can do this work ahead of time. Mathisrud stated city staff will vet it and try to put together a temporary process for the next Council meeting. Randall stated our next Council meeting is on the 12th so if a recommendation is ready earlier than that it might be appropriate to hold a special meeting since time is of the essence.

A motion was made by Conway, seconded by Wills, and unanimously carried to refer the issue of Restaurant Sidewalk Cafes during COVID-19 to city staff.

11. CITY ADMINISTRATOR COMMENTS: Mathisrud stated I will be working from home for the remainder of this week and I'll be back in the office all of next week.

12. DEPARTMENT HEAD UPDATES: There were no comments.

13. MINUTES/REPORTS/INFORMATION: There were no comments.

14. COMMENTS FROM COUNCIL: Randall stated I'm on the city's revolving loan fund committee. We have had several applications and a couple people have taken advantage of that program.

15. ADJOURNMENT: A motion was made by Stone, seconded by Randall, and unanimously carried to adjourn the meeting at 7:09 p.m.

[seal]

Mayor Ryan Leckner

ATTEST:

Margie M. Vik
City Clerk