**Minutes of the Regular Meeting-7:30 Tuesday February 13, 2018**

**Mendota VFW 1323 Sibley Memorial Hwy, Mendota Minnesota**

1. Call to order: Mayor Mielke called the meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Present: Mayor, Brian Mielke, Council members Steve Golias, Melody Rasmussen, Joan Perron and Kathy Krotter. City Attorney, Tom Lehman, Building Official, Mike Andrejka, City Clerk Kathy Krotter and Police Chief Kelly McCarthy.

4. Agenda: Motion to approve the agenda by Council Member Golias, Seconded by Council Member Perron. Motion passed 5-0

5. Approval of January 9, 2018 City Council Meeting Minutes: Minutes to be approved by Council Member Golias, seconded by Council Member Rasmussen. Motion passed 5-0.

6. Treasurer’s Report: Motion to approve the payment of the bills, with hold of check number 5378, by Council member Perron, Seconded by Council Member Golias. Motion passed 5-0.

7. Building Official-Mike Andrejka. Had two permits in January and closed one. Closed the permit for the foundation. Asked about the parking on Windy Ridge if it was private or public road. It is a public road, the city does maintain it. No parking overnight on the street though.

8. Vacation of a portion of Windy Ridge. We have received a petition to vacate a portion of C Street from Windy Ridge Place and ending at D Street. This process is a Legislative function that is granted to the city. There is a statute that sets out the procedure and how to do that. There are two ways to vacate a street and it is similar to an alley. It is at the council’s direction. If it is the council’s direction it requires what we say is a supermajority in order to approve it or a petition by a majority of the land owners that abut the street. Tom mentioned at the January 9th meeting that Kathy received a petition signed by a majority of the abutting property owners of what was to be vacated, which is basically the Millers (Beth and Mike) and Jay Duckson. The next step is to set up a public hearing and give any notice to the affected property owners to express their opinion on the request. Following that public hearing the city acts on the petition either granting or denying it. It is up to the discretion of the city council. Tom will prepare a memo for the council. We need to adopt a resolution that Tom has prepared, for our next meeting on March 13th at 7:30 pm. So upon approval of the resolution it gets published in the newspaper for two consecutive weeks. And then we give notice to the majority of the land owners, like everyone on Windy Ridge. We will write in the easement rights for the utilities. Motion to make the resolution by Council Member Golias and seconded by Council Member Rasmussen. Motioned passed 5-0.

9. Update of R J Daughters Development. Two things have come up, one thing came up previously to tonight’s meeting and one came up at about three o'clock this afternoon. The one that came up previously we had been approached about looking at revising the development agreement that we had with RJ Daughters. We already have a development agreement with R J Daughters in place. Jay Duckson through his lawyer presented what Tom would say is a development agreement that they think best meets the city’s needs. Tom said he would be willing to look at what they put together and share it with the council. Tom did go through it and made his comments and shared it with Mr. Duckson’s lawyer Justin and would forward it to the council relative to their request and e-mailed it to the council with Tom’s comments. Then this afternoon at three o'clock Tom received a 59 page email with attachments from Mr. Duckson’s lawyer to share with us. It has been printed out by some of us and Tom. The email is critical of where we are at with R J Daughters development. Tom thinks for due process and to be fair we should share these concerns with Ray Miller and share concerns about the stormwater management with our engineers, and get their feedback on it. There were no concerns on the construction because Tom has shared with Mr. Duckson’s lawyer the plans on the development and there are areas where we need deeper analysis to consider the changes to the development agreement. The city and developer need to read and weigh in on it. Tom stated it is the council’s decision, but this is Tom’s concerns. Justin Jenkins got up to speak to the council about the concerns. Mr. Jenkins advised that everyone read it and touched basis on a few concerns. Mr. Duckson’s motives are not about a dispute about Mr. Duckson and Ray Miller. This is not where this is coming from. We are not alone and the residents of Windy Ridge have concerns. This is not personal. This is about doing what is right. Three primary concerns. We have concerns about the process. This is a small city and we get it, also the city has limited resources. We are not suggesting that this process has caused a lot of harm but has the potential of causing harm in the future. A lot of work started in this project before the plans were provided. Sewer lines and water connections were done before permits were submitted, and this was stated in the December minutes. Work started before the development agreement was even signed. Being sympathetic to the city’s lack of resources but because of the lack of resources is precisely why we believe we need to make the developer in this project come to the city with all of his plans before he starts working to make sure these plans are done appropriately. Concern number one is process and part of that ship has sailed because the houses are going up out there. Second concern we have is if the development plan is adequate and there are a couple components of that. The first of it is the developer and contractor, a licensed, competent contractor, and one thing the lawyer shared in the letter was some public records that were uncovered since our last meeting. Mr. Jenkins cannot speak to the veracity that these public records say but Mr. Jenkins is asking that the city consider them. MN Department of commissioner for the MN department of Labor and Industry, which licenses residential contractors and back in 2009 it revoked Mr. Miller’s residential contractor’s license. It happened because Mr. Miller violated a particular statue that basically says that the commissioner has the right to revoke the license if a contractor is untrustworthy, financially irresponsible or otherwise incompetent or unqualified to act under their license.

The applications for these building permits for the project have not been signed by Ray Miller they have been signed by his wife, Judy Miller. We need to know if the city should investigate whether or not Ray Miller is a competent contractor. Other paperwork has been included by Ms. Joy McNally (Devee) about a lawsuit against Ray Miller which took 18 months to resolve. Mr. Duckson has hired an engineering firm called Crane Engineering. The engineer has visited the site and he has reviewed all the plans, including the storm water prevention plan and the engineer has concerns. Mr. Jenkins will submit a report from the engineer for the city to review. Mr. Duckson’s engineer and lawyer feel that the drain pipe is a problem, there is no natural flow and causes more damage. There are alternative solutions, like an infiltration basin which makes the water go into the ground. But then other questions arise. Like how does this filtration work when the ground is frozen? Who will maintain the filtration basin? The plan does not adequately handle the concerns and this will cause more water to go into that pipe and onto Mr. Duckson’s property. The engineer thinks you could use the Highway 13 MN Dot ditch and it is not on one of the Mendota residents properties. There have been a lot of the trees removed and with the filtration basin when the new trees are planted they will not survive, because they will drown. There is a new road built into the development and it has a steep incline. There is no plan to address the water that will run down that road. It will be black topped and when it rains the water will pour down that road and it will go onto Mr. Duckson’s property. Another concern is parking on the road and into the new development which was mentioned earlier in the meeting. It is a narrow street and if emergency vehicles have to get in where or how do they get by. Could they use the entrance off of D Street or off the road on Hwy 13. Last concern we have is that Mr. Miller has been foreclosed on and has judgements against him. We have concerns about, what if the project does not get done. What if the economy turns south, what if the real estate markets goes south and Mr. Miller cannot finish the project. The city, the taxpayers or the residents of Windy Ridge might be responsible for something like this. Traditionally we have the developer to have some security. Cash escrow, construction loan or letter of credit. We might have to have a special meeting before this situation gets out of hand. Tom agrees, that time is of the essence. We could hold a special meeting if you require, but probably would not need an emergency meeting. Jason made the comment that three out of the five homeowners are at the meeting because they have concerns. They have seen the other Ray’s houses go up. There is anxiety. Jason has had problems with Mr. Miller with his home as it was being developed. Jason feels Mr. Ray Miller has come back in and is doing the same thing. Jason understands from the cities side that they like the taxpayers and this generates more money for the city. The city does not end up going through the process and it effects the residents that are already up on Windy Ridge. Example the asphalt that was put in over the road, the tree development. But for example, how many trees, how big are the trees, where are they going to go, how much will they cost. Things need to be addressed.

10. Public comments: 8:09 pm. Carl stated he is still having water problems, along with his neighbor and he feels that other people down below are going to have lots of problems soon also. Closed public comment at 8:10 pm.

11. Council Comments 8:10 pm Council Member Rasmussen, nothing. Council Member Golias, any further progress on the guard rail. Mayor Mielke got a letter that stated MNDot would be starting in the spring. They are concerned about gas lines. Want to wait until everything is thawed out. He stated that the green arrow comes a lot quicker since our meeting with MNDot. Mayor Mielke had mail for review and then mentioned that Mayor Mielke and council member Krotter met with St Paul Regional Water Services on Friday the 9th at the VFW to discuss about water at their request. St Paul purchased Mendota Heights Water System and Mendota had an agreement with Mendota Heights that expired in 2014. They didn’t care necessarily back then but they care now because they tested the water pressure and found that Mendota’s Water pressure is tripled. This is caused mostly due to gravity and traveling downhill. The water starts up on Pilot Knob by Acacia Cemetery and flows to Mendota. St Paul Regional Water Services is concerned about pipe failure so they are suggesting a reducer be put in up on Pilot Knob and the city would be responsible for 80% of the cost. St Paul Water figures it would cost about fifty thousand and our portion would be about forty. But they would be willing to finance that for 20 years at zero percent interest so it comes down to about two thousand a year. That would take care of the water pressure. Mayor Mielke also said since we had them here we asked about hooking up water from Benson Metals to where the water comes into town. They would get back to us on how much that would cost and then we asked about finishing hooking up water through town. But St Paul Regional said they would not finance that, but we just want to know the cost. Council Member Perron stated that snow has not been shoveled again on the sidewalks, down by the Sibley House, the house next to Lucky’s, also by Axels. Letters were sent after the January meeting, so once letters are sent, according to our ordinance, there are fines if the problem is not solved. Questions to Mr. Duckson and the Miller’s about where the snow is going to be pushed. Once they own the property the city would need to know where the snow would be pushed. We would need the homeowner’s permission to push the snow there when it does snow. Beth Miller stated that it could be pushed there. Then a comment was made when the new development gets completed where the snow would be pushed to. We cannot push it towards Mr. Duckson’s property. The snow cannot be pushed to make big piles because then it would cause certain problems, like flooding down at the pond and by E Street. Council Member Krotter, nothing. Council comments closed at 8:19 pm

12. Staff Comments 8:20 pm. Chief stated that they had some theft from some motor vehicles here (VFW) and at Lucky 13’s. The police have identified a suspicious person they believe to be involved and are investigating the theft. There were quite a few so just a heads up. Tom stated that he had two things, regarding the property owned by Tracy. We are still having problems with that. Even though we stated that no one should be residing there, there still is. Tracy feels that he can’t get the people out. But apparently they are there at his approval. The chief had a staff member go up there and they are still living there. Tom thinks that we need to tag the property as uninhabitable and if anyone is found there they will be arrested. The problem is there is a couple and they have a small child. So we will have Dakota County Social Services involved and try and get this resolved. The home is not inhabitable. Tom also stated that he received a call from a surveyor who is working with Jim Toye. This is a follow up from a council meeting years ago where they wanted to vacate a street. We had Joan Olin at the time, say that we were willing to vacate the street but needed a survey to see what street needed to be vacated. So Jim Toye has a surveyor and this street vacate might be coming back. If anyone remembers the month or year this happened, Tom would like to find the minutes for that meeting. City Clerk Krotter, had a request for the pond cleaning. There is no water and it is all mud so we declined it. Council Member Perron stated that we have a new family that has moved in, the Donnelly’s and they have triplet girls that are three years old, and so Joan would like to have the slide put up. Staff comments closed at 8:26pm.

13. Adjourn: 8:26pm Motion to adjourn the meeting by Council Member Golias, seconded by Council Member Perron. Motioned passed 5-0.