

Madrid City Council
Special Meeting
May 24, 2011

The Council meeting was called to order at 5:36 p.m. with Mayor Jeff Gibbons presiding.

Present at Roll Call: Steve Burich, Lane Shaver, Val Chapman, Mike Heeren, Don Lincoln

Other City Officials Present: City Administrator/Clerk Todd D. Kilzer, Deputy City Clerk Donna Havlik, Police Chief Rick Tasler and City Attorney John Jordan

Mayor Gibbons announced there would be one agenda item which is to consider the liquor license request from Flat Tire Lounge and Madrid Trail Subcommittee concerns related to it. Mayor Gibbons asked the Council if everyone had received a memorandum from the High Trestle Trail Chairpersons Becky Roorda and Keith Kudej. The Council acknowledged the receipt of the memorandum.

Becky Roorda, Madrid Trail Subcommittee Chairperson, addressed the Council and emphasized that the memo distributed was only from her and Keith Kudej, Construction Subcommittee Chairperson. The purpose of the memo was to bring their concerns to the Council regarding the future operation of the Flat Tire Lounge and to ask the Council to implement their proposed solutions to their concerns. Roorda also requested that the memo be entered with the Council's meeting minutes. Roorda added that their request would be that the Council require the Flat Tire Lounge to agree to the recommendations of the memo as a condition of the City's approval of the liquor license and outdoor service permit. Key concerns outlined by Roorda were as follows:

- The deck steps should be closed, particularly the south steps except for emergency use
- Bicycle parking should be provided off the trail right-a-way and trailhead and it should be enforced by the owners of Flat Tire Lounge and their landlord
- Any commercial use of the trail right-a-way should be limited to the area of the easement agreement

Roorda commented that the City Council is ultimately responsible for public safety within the City limits and for any liability claims that may arise. Roorda extended her appreciation to the Council for allowing them to offer their input on this issue at this time.

Attorney Dan Manning of the Lillis Law Firm, Des Moines, Iowa, approached the Council on behalf of the Flat Tire Lounge. Scott Olsen, part owner of the Flat Tire Lounge was also present for the meeting. Manning commented that he had an opportunity to review the memorandum of recommendations from the Trail Subcommittee that had been provided to the City Council and that he believed everyone basically wants the same thing; a well run business within the City of Madrid. Manning continued that from their perspective, the recommendations outlined in the memo should not be considered pertinent when the Council considers the liquor license. The owners will be operating only in the designated easement area and they will want to enforce the same restrictions. The owners are most concerned with the request to close the deck steps. Manning believed that the owners have tried hard to comply with each of the requirements that were imposed by the City, that the blocking off the south steps would not enhance the safety for the patrons and should not be a stipulation of the issuance of the liquor permit. He also added that the City inspector reportedly made it clear to the owners that there should not be gates to the steps that may restrict ingress and egress from the deck. Manning also commented that Flat Tire Lounge intended on placing signs to control where the bikes would be parked. Councilperson Heeren questioned how the owners plan to keep their patrons on the deck and not on the City property. Manning responded that the owners will try to encourage the patrons to stay on the deck and pointed out that the City addressed the liability issue in the easement by requiring that the Flat Tire Lounge be properly insured; which he believed they were. Councilperson Burich advised Manning that the owners and their patrons will be closely scrutinized and they must stay in compliance or the City will pull the liquor license. City Attorney Jordan referenced a prior discussion of what it would cost to remove the southern steps from the deck. Manning responded that he believed it cost approximately \$60,000.00 to build the deck itself but that he was unaware if a bid had been obtained to remove the southern steps. Councilperson Heeren pointed out that the easement had been presented to the Council that the patrons would have access to the deck only by entering the building. Councilperson Lincoln attended a series of meetings in which the steps were discussed and he had hoped for a compromise with some type of closure on the south steps. However, he was told that it was the Fire Marshall who stated that Flat Tire Lounge could not place any closure on the south steps. Lincoln also voiced the concern that when the south steps become the ingress and egress of the bar, their patrons will use the trail head parking lot. He felt that his concern may create the necessity for signs to be placed stating that the parking lot is for trail users only and all others will be towed. Lincoln also voiced his concern of patrons entering or leaving the deck with alcohol and the possibility of children climbing up on the deck and wondered if the Flat Tire Lounge owners realized that the easement agreement is only for the land that the deck has been built on. Lincoln continued that the Council understood that there would not be any steps at all on the deck and now there are three sets of steps. Lincoln stated that he believed that the City has tripled their liability exposure due to those steps being on City property. In closing, Lincoln emphasized that it was the trail committee that made the recommendation for the easement for the deck; the City agreed to help Flat Tire Lounge out by giving them an easement; and the City was helped in turn by obtaining an easement from the landowner for utility access for the trailhead. It was suggested that Flat Tire Lounge create a bike parking area with a sidewalk leading to an area that would not be located in the City's

easement. Councilperson Lincoln requested a copy of the documentation from the Fire Marshall that gates could not be installed on the steps. Attorney Manning agreed to provide the City Council with the Fire Marshall's commentary from his clients.

Manning informed the City Council that a representative of Flat Tire Lounge had submitted a plan to the inspector; the inspector approved the plan; and the deck was built in accordance to that plan. Manning added that whenever problems arise, the Council can request the Flat Tire Lounge owners to explain any failure to comply with the easement. Manning added that the City has a strong safe guard in the easement which clearly states "that should Flat Tire Lounge not comply to the requirements of the easement, the City can revoke the easement." Manning believed that the City had the ability to handle any concerns as they arise due to that clause in the agreement. Attorney Manning suggested that dialogue continue between the City and the owners of Flat Tire Lounge as to where the bikes should be parked.

Councilperson Lincoln advised the Council that he believed it has been mentioned in the past that it should become part of the trail rules that anyone using a portion of the trail easement would be required to get a special trail easement permit. Councilperson Lincoln also hoped that the City would be adopting a comprehensive use plan for property owners along the trail which he understood that the county has already done.

Councilperson Shaver felt that the Flat Tire Lounge owners are willing to comply with the requirements and that the parties involved could work out some compromise. Councilperson Burich commented that Flat Tire Lounge owners need to know where they stand and that he was prepared to vote on the liquor license.

Attorney Manning reiterated that all of the Council's points have been well taken. He continued that the City has a lot of power within the easement and can control much of Flat Tire Lounge's business operations through it.

Councilperson Lincoln suggested that the liquor license be granted for a period of six months instead of a year. He added that he would have been in favor of a one year liquor license had the problem of the High Trestle Trail Celebration had not happened.

Mayor Gibbons requested a motion for approval of the twelve month liquor license as presented. Motion by Councilperson Shaver, seconded by Councilperson Chapman, to approve the twelve (12) month Class C liquor license with outdoor service and Sunday sales.

Ayes: Shaver, Chapman, Burich

Nays: Heeren, Lincoln

Motion Carried

Councilperson Lincoln questioned if the Council needed to act on the Madrid Trail Subcommittee's recommendations. Attorney Jordan responded that the issue that the City can act upon is the liquor license. Jordan continued that the City cannot place conditions on a liquor license. Jordan emphasized that the City will be looking at this in twelve months and hopefully all issues will have been taken care of.

Roorda commented that she is very tired and felt this was an extremely unpleasant experience for her. She felt that the matter is up to the Council to handle and that it is not a trail issue but a safety issue.

Motion by Councilperson Heeren, seconded by Councilperson Lincoln, to adjourn at 6:29 p.m.

Ayes: All Present

Motion Carried

Mayor Jeff Gibbons

ATTEST:

Todd D. Kilzer
City Administrator / Clerk