

## **MEDINA CITY COUNCIL MEETING MINUTES OF MARCH 4, 2003**

The City Council of Medina, Minnesota met in regular session on March 4, 2003 at 7:30 p.m. in the City Hall Chambers. Mayor Zietlow presided.

### **I. ROLL CALL**

**Members present:** Workman, Lane, Zietlow, Smith, and Brinkman.

**Members absent:** None.

**Also present:** City Attorney Ron Batty, Public Works Director Jim Dillman, City Engineer Tom Kellogg, City Administrator Chad Adams, Planning and Zoning Administrator Loren Kohlen and Recording Secretary Karen Whaley.

### **II. PLEDGE OF ALLEGIANCE**

### **III. ADDITIONS TO THE AGENDA**

It was requested to pull item 5D from the agenda.

It was requested to correct item 5A to say Crystal, not Loretto.

*Moved by Lane, seconded by Workman, to approve the agenda as amended. **Motion passed unanimously.***

### **IV. APPROVAL**

#### **A. Approval of the February 18, 2003 Regular City Council Meeting Minutes**

It was noted on page one that item 5B. was removed from the consent agenda, and on page two, starting with the first paragraph, is the discussion for item 5B, which should be labeled as such.

Also noted on page two, item 6B should state: "Dillman noted the Park Commission recommended approval of \$8,000 for picnic tables and benches in Hamel Legion Park from the Hamel Legion Park fund", and the motion for item 7A1 should state: "to postpone the grant application".

It was noted on page four, paragraph three should state: "Bill Loe asked...".

*Moved by Brinkman, seconded by Lane, to approve the February 18, 2003 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Resolution to Support CDBG funding for Living Works Lodge project in Crystal.**

#### **B. Resolution Authorizing Truck Purchase for Public Works Department.**

#### **C. Resolution to Accept Road Material Bids.**

#### **D. Resolution to Grant Final Plat Approval of Hamel Legion Park Second Addition.**

Item D was removed from the consent agenda as previously requested.

*Moved by Workman, seconded by Smith, to approve the consent agenda as amended.  
**Motion passed unanimously.***

## **VI. COMMENTS**

### **A. Comments from Citizens on Items not on the Agenda**

There were none.

### **B. Park Commission**

Dillman noted there have been several meetings concerning the City's trail system, and the Park Commission is currently putting together costs.

Smith noted the goal is to discuss again at the next meeting, with each of the Commissioner's having take-away items to work on. She indicated the plan needs additional work, and should be ready in a couple of months.

### **C. Planning Commission**

Kohnen noted they have taken care of several ordinance housekeeping issues. He stated Rolling Green will be coming before the Council later this year for permits for a larger pool and a small addition to their cabana. He added Rolling Green Business Center should be coming as well, with a proposal similar to the last one, which includes townhouse style offices with a residential look.

## **VII. BUSINESS**

### **B. Parks**

#### **1. Construction Consulting Services for Hamel Legion Park Community Building project.**

Adams reviewed that the City had received three proposals, and Staff met with two of the consulting firms, conducting interviews on Monday and Tuesday. He indicated the scope of the services requested would include design review, budget preparation, bid request and review to award the contract, as well as other miscellaneous services. He noted the proposal they are recommending through Bill Wolters with Constructive Ideas for \$7500 and outlines the fees being charged. Adams advised they received one bid lower, for \$7000, but when interviewing the consultants were more comfortable with Wolters, who has a broader range of experience working with municipalities.

Kohnen concurred with the recommendation.

Smith questioned the \$9400 extra to have consulting through the entire construction, stating she expected it would be through the entire process like in Long Lake, and was surprised at the amount.

Adams stated Long Lake used two processes, one for the Fire Station and an abbreviated version, such as this, for the City Hall. He stated Staff thought the architect

would be the overseer during the construction phase, and if issues were addressed upfront during the design phase additional supervision would not be necessary.

Batty indicated the idea was to spend the money upfront so there are no surprises in the future, and to ensure that the City is not saving money now just to have increased maintenance in five or ten years that could have been avoided.

Wolters indicated the construction management fees for the Long Lake Fire Station were \$75,000. He noted the benefits they received for that project and outlined the differences with the City Hall project. He discussed the benefits of value engineering to eliminate surprises.

Smith asked if he would review the design using the sustainable guidelines that may be required by the State.

Wolters indicated he has done some work with Rebecca Wolters at Dakota County Northern Service Center, and does budgets for many city and county projects, and will review however Medina requires.

Zietlow noted they were being asked to approve Phase I at this time.

Batty commented he thinks it is a good idea to have a disinterested third party involved at this stage of the process to make sure nothing is being missed.

Smith asked who would oversee construction.

Batty indicated there is a lot of construction experience through the Lion's Club, and they, along with the architect, would oversee the actual construction.

Smith commented that overseeing construction needs to be in the agreement with the Lion's Club if that is the approach the Council is going to take.

*Moved by Workman, seconded by Brinkman, to approve Phase I of the Construction Consulting Services contract for Hamel Legion Park Community Building Project.  
**Motion passed unanimously.***

## **2. Concession Building proposal in Hamel Legion Park**

Adams reviewed the project and noted a letter of intent from the Hamel Athletic Club, outlining their desire to proceed with fundraising for this project. He noted the critical question is if the Council is willing to let the building be constructed and then turned over to the City. He stated he spoke with the insurance agent for the City who had some concerns, but indicated it would probably be okay if the City was provided with a certificate of insurance.

Jerry Dykhoff represented and introduced members of the Hamel Athletic Club Building Committee and outlined the plan as noted in their letter to the Council. He indicated the building would be turned over to and maintained by the City after construction. He explained they have a program for 500 kids, and the intent is to move the entire program to the Hamel Legion Park as soon as this building, with bathrooms, is constructed.

Dykhoff stated they know this is a unique situation, and explained they want to build the building as economically as possible, with a goal of raising \$150,000. He indicated they do not know how much of a building they will be able to build, but are proposing a shell at minimum, with the interior completed as money allows. He asked for approval from the Council to raise funds for this project and a permit to build on a time and material basis, as spelled out in the letter. He indicated that while the committee has not discussed the insurance issue, he would hope the City could take care of that piece.

Dillman noted that sewer and water was already there, it would just be a matter of hooking up to it for the bathrooms.

Dykhoff advised that the Hamel Athletic Club had erected two shelters at the park in this same manner, with fundraising and donations of time and materials, and would like to do this building the same way, with Staff supervision. He indicated the building would be similar to the picture provided in Wayzata, with no heat, but complete bathrooms, a concession stand area and storage space to store equipment for the programs.

Workman commented it was a good project, but wanted to make sure insurance was addressed and stated he does not want the project started until most of the money is raised so the project can be finished.

Adams indicated the insurance agent had advised against the City taking out a certificate of insurance for the construction phase, due to the liability.

Tom Dykhoff stated they would pursue a rider during the construction phase.

Batty advised it is a conceivable plan, and the City could accept a donation, but it is a complicated issue. He stated they need to lay out control over design, control over construction, ADA requirements for public buildings, insurance issues, certainty of completion, ongoing maintenance and any other site improvements that would be required.

Lane asked if a performance bond would be acceptable to ensure completion or if it is too expensive.

Batty thought that would be difficult because of the nature of the entity. He recommended not starting construction until the majority of the money was in hand, adding that may be an added difficulty with donated materials and labor.

Lane asked that the design be compatible with the new Hamel Community Building. Jerry Dykhoff indicated it would be, adding the design would be approved by their Building Committee and by City Staff.

Workman indicated he would be okay with having Staff work with them, but wants the City Council to have plan approval.

Brinkman asked Staff to provide a checklist of things for them to consider, and have the Committee interface with Staff on the building design.

Smith asked if there were other options than turning the building over to the City, such as leasing the Legion the land the building would be on.

Batty indicated all the issues and options need to be reviewed to see what the City needs to move forward with this generous offer.

*Motion by Workman, seconded by Brinkman, to have staff review the Concession Building proposal and provide recommendations. **Motion carried unanimously.***

Batty cautioned about allowing the Legion to begin fundraising under false pretenses, as the City Council has not given full approval yet.

Tom Dykhoff indicated they will work with Staff to lay out the issues for the City Council with proposed solutions, addressing ADA, budget, scheduling, etc.

## **A. Public Works**

### **1. Storm Water Pollution Prevention Program**

Zietlow requested this issue be tabled, as he has some major concerns with it and would like to meet with Staff to address.

Adams indicated there would be a small problem with the timetable, although there is a proposed extension to May 9, but he recommends getting the preliminary application in by the March 10 deadline.

Zietlow indicated his problem was with the objectives, noting that if the application can be submitted without the objectives, he is okay with it. He indicated the objectives as listed would cost hundreds of thousands of dollars.

Smith noted they have to discuss at some point.

Batty noted the deadline issue eluded to is March 10, with a recent extension to May 9, however March 10 is a Federal deadline and there is question if the State has the authority to extend it, therefore he cannot give assurance of the extension.

Kellogg indicated his understanding is that the City can submit an application of intent saying they are working on it and it will be ready by May 9.

Zietlow stated he wants to make sure they go into this with their eyes open, and he does not think the City needs to do all of this.

Kellogg stated he would contact Jennifer Hildebrand and see what needed to be done by March 10, adding they are one of a few municipalities that are ready to go, and most will not meet the March 10 deadline. He does not believe they will be imposing penalties, but he would like to have Jennifer come in and answer questions. He added the cost analysis does show about \$100,000 a year, but a lot of the costs are ones the City is already spending.

Zietlow thinks there are ways of fulfilling the legal obligation without going overboard.

Kellogg, Dillman and Adams commented that Staff thought they had gone down to bare bones from what was recommended, but prefers to have Jennifer answer questions.

After additional discussion, it was agreed Zietlow and Smith would meet with Jennifer and Staff on Friday morning, March 7 at 8:00 a.m.

*Moved by Lane, seconded by Workman, to table approval of the Storm Water Pollution Prevention Program plan until the March 18, 2003 meeting. **Motion passed unanimously.***

Smith verified that Staff will send in the first pages of the application by the March 10 deadline.

**2. Sioux Drive Study**

**3. Uptown Hamel Drainage Study**

Adams indicated these reports had been discussed at the work sessions, and Council needs to decide if they want to accept them.

Lane asked what was important about accepting them rather than just having the results available.

Adams indicated it shows that the City is prepared in this area and helps mitigate issues that could come up when proposals come forward.

Batty added that from a legal perspective, the City needs to accept the feasibility report if they want to consider assessing. He stated one was a study, which just needs to be accepted, but the feasibility report should be adopted. He added Staff is looking for direction from the Council on the importance of these issues to be able to prioritize and allocate their time. He stated if they wanted to take the drainage study to the next step, they could amend the study to include a feasibility report.

Kellogg noted this was only necessary if they want to assess based on the study.

*Moved by Smith, seconded by Workman, to adopt the Sioux Drive Feasibility Report and accept the Uptown Hamel Drainage Study with no further direction to staff to move ahead. **Motion passed unanimously.***

**4. County State Aid Highway (CSAH) 19**

Dillman reviewed the letter from the Hennepin County Transportation Department for the Council, indicating the issues they had, such as sewer and city costs, had been worked out. He indicated Hennepin County is picking up all the costs now, just like Highway 101, but when Medina reaches a population of 5000, from their current 4200, it will not continue that practice.

Lane asked if there were any hidden charges, like with 101, for utilities or anything along those lines.

Craig Twinem, project manager representing Hennepin County, indicated curb and gutter were proposed along a section of the improvements, and their cost participation program indicates the City would pay 25 percent of that cost. He stated he does not

believe there are any utilities, but they are asking for preliminary approval so they can get into more details and provide the City with a cost estimate, which will happen before final approval.

Lane asked if owners have to rebuild septic systems, would that take place at County expense.

Twinem indicated it would, if it was determined that was the best solution. He added that the previous plan had shown a raised median, which has been eliminated and will have double line stripping instead.

Lane clarified that the parking ban is forever, not just during construction.

Twinem indicated that was correct, it is a State Aid requirement.

*Moved by Lane, seconded by Smith, to Approve the Preliminary Layout No. 1, with stripping, dated June 5, 2001, and authorize the County to acquire all right-of-ways, permits, and or easements required for the improvements proposed in Preliminary Layout No. 1, and ban the parking of motor vehicles at all times and provide enforcement for the prohibition for those portions of Project No. 9225 within its corporate limits. **Motion passed unanimously.***

## **C. Planning**

### **1. Planning Commission Appointments**

Kohnen advised that they have three applicants for three openings, with no other responses received. He noted that Lenny Leuer is on his last three-year term.

Kohnen indicated Staff is recommending the reappointments.

*Moved by Workman, seconded by Brinkman, to appoint Lenny Leuer, Dick Picard and Bill Loe to the Planning Commission for three-year terms. **Motion passed unanimously.***

### **2. Resolution to approve preliminary plat approval for sub-division, Rita Jubert, 1355 Hamel Road.**

Adams reviewed that this had been directed to Staff to make recommendations, and Staff wants to bring it back on the next Council meeting to start ordinance changes to address Park Dedication fees. He reviewed that the current policy since May 2002 is that fees are \$3300 per living unit, not to exceed 10 percent of the property value, and is not clear if that includes all three lots or excludes the existing lot in this case.

Kohnen commented that the ordinance says all three lots should be done, and the City should not be negotiating, but the problem is the wording says per lot, and they had a situation where there were a lot of units on one lot. He demonstrated the current situation on a site map, including ghost platting, and stated he believes they should pay for the large lot, and it can be credited back if not done.

Batty indicated it is clear the ordinance needs to be revised, and stated what is being suggested is that Staff provide recommendations at the next meeting, as the last several subdivisions have all been done differently. He added that Council needs to address the Jubert's subdivision now.

Discussion ensued on the current policies, and recommendations for handling the Jubert's subdivision. Workman recommended approving the Jubert subdivision based on 10 percent of \$3300 and having staff come back with recommendations to change the ordinance going forward.

Kohnen stated he would want the ordinance changed as soon as possible, before the Rolling Green Business Center comes before the Council.

Zietlow asked where the 10 percent recommendation came from.

Batty explained it was from a Bloomington case several years ago, where the court determined 10 percent to be reasonable. However, he indicated while 10 percent may have been reasonable in that case, it is not necessarily always that way. He believes there should be more subtle decisions based on use, which is much harder to do than having a flat \$3300 fee or 10 percent of the land value.

Lane discussed the three parcels, indicating that neither the large residential lot nor the existing homestead lot will have a heavy tax on recreational facilities, nor will the commercial lot. He referred back to the Council discussion on 10-acre exceptions, and asked Batty to review section 820.71H, which refers to 10-acre exceptions in undivided subdivisions to see if it applies. He indicated if they look at the 10-acre exception, only the commercial lot should pay the fees.

Smith indicated she has sat in on many Park Commission meetings and has seen the cost of trails, and understands the City needs to have the money if they want to have a trail system.

Lane indicated the Planning Commission recommended one park dedication fee.

Zietlow stated he believes that was based on Commissioner Leuer's belief that 10 acres should still be exempt.

Lane agreed, but stated to settle Jubert in an equitable manner, he moves to accept the Planning Commission recommendation and assess one park dedication fee of \$3300. There was no second to the motion.

*Moved by Workman, seconded by Lane, to approve the preliminary plat approval for sub-division, Rita Jubert, 1355 Hamel Road with two-park dedication fees of \$3300 each.*

Smith expressed concern that giving them the trail easement in exchange for the third \$3300 may be setting a precedent. She indicated she had been involved in the discussion to go to \$3300 per lot, and thinks it should apply here.

Workman indicated he does not agree with assessing the existing property when there is not new or additional value to that lot.

Batty noted that the easement to the City is an extraction under the ordinance, and is worth much more than the \$3300. He reminded the Council that while they are focusing on money, the ordinance says the Council may request land or fees in lieu of land when land is not needed. He indicated the ordinance allows for two separate dedications, one for roads and one for parks, adding credit is not given for the road easement toward the park dedication requirements. He indicated the advantage to using a percentage is to take the moneys equivalent of the land value.

Brinkman asked for clarification on why the limit was \$3300.

Zietlow indicated the surrounding cities were similar, and added that Wild Meadows started at \$5000 and was negotiated down to \$3300.

Lane noted it was negotiated down because of all the open space and trails that were being gained.

Smith noted they were getting the value of the trail, which is worth more than \$3300.

***Motion carried unanimously.***

Batty indicated he and Staff will try to lay out a change to the ordinance, however he does not think there is consensus with the Council and he does not expect everyone will be happy with the recommendation they provide.

Smith stated that at a Planning Commission meeting they discussed how to handle affordable living units, and asked if the Council wanted to consider lower fees for this type of development.

Workman commented he would prefer no exceptions.

Batty reminded them it was their discretion to take land or cash.

Zietlow asked about the 10-acre exception rule.

Workman indicated it should go away.

Zietlow stated it had worked for years, and explained the theory with providing an exception for lots 10 acres or more.

Batty indicated Staff would provide a draft for Council to review.

**D. Administration**

**1. Reschedule March 25, 2003 Special Meeting**

*Moved by Smith, seconded by Brinkman, to reschedule the March 25, 2003 Special City Council Meeting to April 29, 2003 from 7 – 9 p.m. to discuss Agriculture Preserve and Uptown Hamel. **Motion passed unanimously.***

Smith asked about the HCD priority services list, which she stated requested comments by March 10.

Adams stated a letter was being prepared from area Mayor's to address.

Smith indicated she did not want it sent out until she sees it, and she does not want to lose services. She asked what were presented as the top issues.

Lane indicated there was a meeting held that morning, called by Hennepin County Environmental Services and attended by five or six northwest communities and the Watershed District. He indicated there was agreement that all involved parties want the County to absorb as many of these services and staff as possible, adding that Medina shares the same views as the other cities involved.

Smith reiterated that she would like to know what were represented as the top priority services.

Adams will try to get a copy of the report.

#### **VIII. APPROVAL TO PAY THE BILLS**

Workman asked Adams to look at the City Bonds and review the interest rates in consideration of using surplus funds to pay them off.

Zietlow asked about the check for the parking lot lights, asking if they were now in compliance.

Dillman stated that check was for a broken underground wire.

Smith commented the lights in the lot appear to be on late at night and asked Staff to check them.

*Moved by Workman, seconded by Smith, to approve the bills, order check numbers 24839-24890 for \$279,175.79, and payroll check numbers 17985-18000 for \$20,773.79. **Motion passed unanimously.***

#### **IX. ADJOURN**

*Moved by Workman, seconded by Brinkman, to adjourn the meeting at 10:10 p.m. **Motion passed unanimously.***

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Philip K. Zietlow, Mayor

Attest:

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Chad M. Adams, City Administrator