

MEDINA CITY COUNCIL MEETING MINUTES OF APRIL 1, 2003

The City Council of Medina, Minnesota met in regular session on April 1, 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 (arrived at 7:33 p.m.).

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, City Administrator Chad Adams, Planning and Zoning Administrator Loren Kohnen, and Recording Secretary Carla Wirth.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

It was requested to add, under Administration, Item C2, Discussion of Letter to Hennepin County.

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

IV. APPROVAL

A. Approval of the March 18, 2003 Regular City Council Meeting Minutes

A correction was made to Page 3, last paragraph, to indicate: "Philip Eckert, with Hennepin County Environmental Services Manager, came away from the ..."

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

Brinkman arrived at 7:33 p.m.

V. CONSENT AGENDA

A. Renewal of Consumption and Display Permit – American Legion No. 394

B. Resolution Granting Preliminary Approval for Wild Acres of Medina

C. Resolution Authorizing Publication of Ordinance No. 350 by Title and Summary – Regulation of Construction Site Storm Water Runoff

D. Resolution Vacating a Portion of Prairie Drive

Mayor Zietlow removed Item D from the Consent Agenda and indicated that it would be discussed at the Council meeting of April 15, 2003.

Lane requested Item B be removed from agenda to provide an opportunity for Mrs. Jubert's developer to address concerns she has communicated to Councilmembers.

*Moved by Smith, seconded by Workman, to approve the consent agenda Items A and C. **Motion passed unanimously.***

B. Resolution Granting Preliminary Approval for Wild Acres of Medina

Lori Karnes stated they are not happy with the change in the park dedication fee since she understood it was approved on February 4, 2003. She asserted that Wild Acres had been approved with one park dedication fee but now that has changed. She presented information related to the 60-day rule and State statute. Karnes stated the application was accepted on December 14, 2002, the application with one park dedication was approved on February 4, 2003, and the 60-day rule expired on February 12, 2003 since nothing was submitted to extend consideration beyond 60 days. Then on February 18, 2003 it was changed to add another park fee.

Batty noted that the City did not receive approval from Hennepin County until later in December so the 60 days may expire some time after February 12, 2003. However, the chronology is correct that on February 4, 2003, the Council authorized preparation of a resolution consistent with the Planning Commission recommendation of "one park fee" but no indication of what that actually meant was provided since a dollar figure was not indicated. There was further Council discussion on February 18th and the item was brought back again on March 4 where Council approved two lot fees at \$3300 each, thus totaling \$6,600. The 60-day rule means it must be approved or denied and there is no question that the preliminary plat was approved. So, the question is the terms of that approval and what was intended on February 4 when the Council said it approved by the Planning Commission recommendation. Batty stated the question is whether "park fee" mean one unit or applying the 10% rule to one lot. The 5-acre parcel to the north is valued at \$205,000 so 10% would be an approximate \$20,000 park dedication fee.

Mayor Zietlow stated the ordinance says there is a 10% maximum of the land or cash in lieu. Batty stated that is correct and the City usually relies on the Assessor to indicate the value, then 10% is applied to that value.

Karnes stated it was clear to her from the discussion subsequent that \$3,300 per lot is what was intended. Batty stated the Council makes that decision.

Brinkman stated the Council comes up with a fair amount throughout the City and he was trying to come up with a fair assessment that made sense, was practical, fair across the board, and something all can live with.

Workman stated he is tired of park dedication fee issues coming back so he is glad to see it will be discussed later on the agenda. He indicated that in fairness with this project, he had agreed with the concept to charge one park dedication fee due to what happened with this situation. Workman stated that if the parties are going to make a compromise, it should be made to the benefit of the landowner.

Brinkman stated this project is getting the benefit of being one of the first ones in and the City is not taking as big a park dedication so the City has already made that compromise consideration.

Workman stated people shown be able to learn costs when they come into City Hall.

Smith stated the applicant is not being penalized, but receiving a good deal. She noted that the \$3,300 park dedication fee was taken off the books last year and is no longer in the ordinance. Smith stated the last park dedication was for Gramercy and set at 10% of the value. She pointed out that instead of taking 10% of the value of the commercial property, it is better for the Juberts to take the two \$3,300 fees plus the trail, which is what is "on the table."

Batty read the staff memorandum submitted to the Park Commission, which recommends two park dedication fees.

Mayor Zietlow reviewed past considerations related to park dedication fees. He stated he can support either way since the large lot will be subdivided at some point in future.

Karnes stated the commercial parcel is under contract and he plans an office condo of about 24 units, which would result in a large park dedication fee.

Brinkman stated he thinks if you look at what other cities do, you would agree these fees are under what is charged at Plymouth. Karnes stated they are not lower and Medina takes land and money.

Smith suggested this item be tabled until after discussion is completed on the park dedication issue.

Mayor Zietlow stated it would not be fair to consider this project under new rules.

Mr. Jubert asked what Section 820.71h says. He suggested that it indicates that parcels of 10 acres or less do not pay and 10 acres or more does pay. Batty stated he does not think it contains that language.

Jubert stated that he thought they had an agreement with the City for approval with one park dedication fee. He stated he showed this to an attorney who said the City cannot charge for both lots but can charge for the one across the road. Batty stated it is not \$3,300 for commercial property.

Mr. Jubert stated he is already giving a trail and now the City wants \$6,600 for park dedication fee. He stated that after the fees, his mother will not be making any money on the sale of this property.

Lane asked Mr. Jubert if, in the spirit of what has been said about the City's right to assess up to 10%, he would accept \$6,600 park fee. Lane stated if they are unwilling to accept that, then Council will need to make a decision of whether to stay with two assessments at \$6,600 or fall back to one fee at \$3,300. He stated that from a business point of view, he is uncomfortable spending more on consultant engineering and legal fees to save \$3,300. He stated that falling back to \$3,300 compromises the principle but that is largely at the City's own making, and not from something the applicant did.

Karnes stated her understanding is that 10% fee is based on raw land before it is platted. She asked who determined figure of \$205,000. Batty stated the City Assessor

does. Karnes stated pre-planning would have to be on a per acre basis. Batty stated it was at \$4,100 per acre. Karnes noted this property does not have water or sewer.

Moved by Lane, seconded by Workman, to reconsider the resolution adopted at the last meeting granting preliminary approval of Wild Acres of Medina with an assessment of two park fees and amend the resolution back to single park fee of \$3,300.

Smith asked about the trail easement on the property to the south. Workman stated this consideration does not involve the trail easement. Smith stated she has a problem with the Council waffling because someone objects. Brinkman agreed and stated he thought the Council had come up with a fair park fee.

Mayor Zietlow stated the applicant does not agree and it is possible the City's rules are not clear enough.

Motion passed four ayes, one nay (Smith.)

Batty read Section 820.71h which related to unplatted parcels of ten acres in size and smaller. He advised that this Section does not apply in this case.

Lane was excused from the meeting at 8:00 p.m.

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Park Commissioner Robin Reid stated they will start work on a Capital Improvement Plan for the parks as soon as the trail study is completed. She stated that in the future they will do park inventories and hope to get more specific items into future budgets.

C. Planning Commission

Kohnen stated the Planning Commission has nothing on their agenda for the next meeting. He updated the Council on a future Keller property project that would require receiving sewer service from Orono. Kohnen advised the Council of the request to also update an intersection in that area that could result in costs to Medina.

VII. BUSINESS

A. Parks

1. Park Dedication Fees

Adams presented his memorandum dated March 27, 2003 regarding park dedication fees, area comparisons, and available options. He stated that once determined, staff will draft a new ordinance or amendment to the current ordinance. Adams used a video presentation to detail the City's future park and trail needs. He explained three scenarios for the Council's consideration.

Batty stated the most important word is “reasonable” and the park plan referred to earlier is designed to what the reasonable recreational needs are of the City and what should be charged per lot or per acre to match that need. He stated at first “blush” these are large numbers and the City is likely to set a fee that is below these numbers so it will be legally defensible as being a reasonable number.

Adams concurred and stated other cities he talked to said their fees are well below 10%.

Smith stated this demonstrates the validity of the \$3,300 park fee that was used several years ago. She noted the trail plan that will be coming forward will need another source of revenue. Smith stated the Council is looking at a commercial and industrial value at 10% per acre. Adams stated staff has talked about a combination of percentage and minimum unit fee or 10%, whichever is greater. However, some of the land may be valued very high so, perhaps, there should be a cap as well. He noted that Orono does something similar to that. Another question would be the 10-acre exception to reduce the impact of larger fees on low-density acreage.

Batty stated the ordinance discussed at the last meeting was a simple fix but it has become apparent this can be a very complicated subject and some ordinances are quite elaborate. However, Medina had a more simple ordinance. Batty noted that at the last meeting, the Council talked about taking the City’s simple ordinance and making minor changes. He stated he is involved with another city’s ordinance that is much more complicated with sliding scales and various fees. Batty stated that ordinance includes the concept where they do not exempt any lot by size but do make a consideration between rural and urban land. In that case, the rural property pays a lower amount and the urban, sewer property pays a higher fee since there is a greater recreational need.

Smith stated one of the issues about urban and rural, is that most rural parcels have more than ten acres but still use the City’s trails for walking and their horses. She stated she would like the ordinance to be as simple as possible.

The Council discussed whether the park fee should be based on per residential unit or per acre. Batty noted the revised version includes the words “the higher of” and suggested the question is with large lots, valuable land, that contains one house and one family. He asked the Council to keep in mind the statute envisions taking the land. But, if City does not need land it would take cash, save it, and then buy land for park. With a percentage in the ordinance, it allows the City to save funds for future parkland.

Workman stated he supports using a percentage but 10% is too high for some projects.

Mayor Zietlow suggested a cap be set and asked if the Orono ordinance is complex. Adams noted the numbers would have to be amended. Mayor Zietlow suggested that the park fee number be attached to a sliding index so it is updated every year.

Batty stated the City should adopt an ordinance every January that considers all fees. A standard ordinance could be developed that is considered annually. He stated that historically the City did a 10% park fee but another option would be to have the City’s Assessor, each year, determine the average value of a single-family lot by the acre. He stated that an appeal clause should be included in the ordinance to allow that process.

Mayor Zietlow asked if the ordinance should include a cap. Workman suggested a combination using the Independence ordinance section for larger lots with a cap and the Orono ordinance section for 8% of the market value with a \$5,300 cap. Brinkman suggested a hybrid ordinance be drafted that includes both of those options.

Smith asked if the new trail system should be built on the backs of only the new developments. She suggested that the City will need to find additional funding for the trails. Workman stated he supports using park dedication fees to develop new parks and not for maintenance costs.

Workman stated the park dedication fees are passed on to the home buyer and asked if Medina will be returning value for what the fee are. He stated he does not know what the numbers should be but would support 8% and thinks 10% is the maximum. He stated that when someone applies for a permit, they should know before they leave the City Hall what their park dedication fee will be.

Smith stated she likes the Orono ordinance that has 8% and a minimum and maximum for both residential and commercial.

Mayor Zietlow asked if trail easements would be deducted. Batty stated that a credit would have to be given for trail easements and it is the City's option whether to take the park dedication in all land, all cash, or a combination. He stated it is important to keep roads and sewer easements separate from trails and that type of easements should not be considered to satisfy a park dedication.

Mayor Zietlow suggested staff determine scenarios using those percentages.

Batty noted the current ordinance is in effect until it is amended and the current ordinance says 10% and that a distinction can be made between commercial and residential lots. He noted that the consideration of commercial or office units does not relate to park usage the same as with residential units. Thus, the percentage calculation works better for commercial and industrial property.

Adams stated staff will prepare scenarios for residential land that includes a minimum, maximum, and using 10 percent for commercial. Batty read the language included in the current ordinance and advised that without modification to this ordinance the City can require, in all cases, a reasonable park dedication up to ten percent. However, the City has not always practiced that ordinance.

Park Commissioner Robin Reid asked if the ordinance language should be changed to "park and trail dedication fee." Batty noted the Statute uses the term "park dedication" but it allows the development of trails.

B. Planning

1. Rolling Green Country Club – Conditional Use Permit Amendment

Kohnen stated this is a conditional use permit amendment for Rolling Green Country Club who wishes to add a 26 foot by 24 foot addition for pool equipment to the existing cabana building. He explained the Club also wishes to replace its existing swimming

pool and enlarge the deck around the pool plus construct a new 40-foot by 80 foot patio between the club house and pool. The total hard surface area will be 8,049 square feet.

Kohnen stated zoning on this property is PS, Public/Semi Public, which allows this type of use. He noted several years ago, Rolling Green received a CUP to build a new clubhouse and cabana. This request will be an amendment to existing CUP.

Kohnen noted the building meets the requirement for exterior building materials which will be wood to match the existing shingled pitched roof. The lighting plan meets the zero lumen at the property line requirement.

Kohnen advised staff and Commission recommends approval subject to nine conditions.

Hoyoul Chang, architect representing the applicant, displayed a colored artist rendition of the proposed pool facility with a zero entry and cabana addition, noting it is about 40% larger. He stated they also propose a new patio. The building addition would house pool equipment and the equipment room, and will have the same appearance as the existing building. He noted the new pool deck will be one level.

Workman stated there have been no problems with the current conditional use permit.

*Moved by Workman, seconded by Brinkman, to approve the Conditional Use Permit Amendment for the Rolling Green Country Club subject to nine conditions. **Motion passed unanimously.***

C. Administration

1. Mayor's Term

Mayor Zietlow stated he would like the Council to hold discussion on the length of the Mayor's term. He stated he can see the advantage of a two-year term so it does allow a majority of the Council to be newly elected. He noted the staff report indicating what other cities use.

Workman stated he voted to support a four-year term but wished he had not.

Moved by Workman, seconded by Smith, to change the term for Mayor to two years.

Smith stated she supports a two-year term because it forces the Mayor talk to the people every two years while campaigning. This gives the Mayor a better feel for what residents want and to stay in touch with what is going on in the community.

Motion passed unanimously.

2. Discussion of Letter to Hennepin County

Smith explained that Hennepin County is reducing landowner services and the best management practices program. But, there may be an opportunity to send a letter to the County Commissioners saying you appreciate the opportunity to voice an opinion on programs and encourage them to maintain the agricultural best management practices as a program which is valuable. She stated this program is key to the Ag Task Force that also wanted to do some education.

Adams stated the Board of Commissioners is meeting next Tuesday.

Mayor Zietlow asked how a letter could be written with Council's input at this time. Smith concurred and stated the draft letter could be e-mailed to the Councilmembers for review and input.

Smith reviewed the information she received which clearly laid out the options included or excluded. The Hennepin County General Government committee's recommendation was option 2.5 6FTEs, which she read. Smith stated if the County Commissioners heard from someone that the program was important, then, perhaps, it will not be cut.

Mayor Zietlow asked if this can be done legally without violating the open meeting law. Batty stated this can be done if the changes to Adams' letter are relatively limited and it does not involve a back and forth dialogue among Councilmembers debating the merits of the change. He noted this process is done currently with the Ag Task Force.

Adams stated he will draft a letter tomorrow and e-mail it to the Councilmembers. The Councilmembers can then respond back to him on changes desired. Adams stated he will provide the Councilmembers with contact information and they can call if they wish.

*Moved by Smith, seconded by Workman, to direct staff to draft a letter to Hennepin County Commissioner Penny Steele in support of the agricultural best management practices program. **Motion passed unanimously.***

VIII. APPROVAL TO PAY THE BILLS

*Moved by Smith, seconded by Workman, to approve the bills, order check numbers 24949-25000 for \$182,043.28 and payroll check numbers 18041-18056 for \$20,895.20. **Motion passed unanimously.***

IX. ADJOURN

*Moved by Workman, seconded by Brinkman, to adjourn the meeting at 9:22 p.m. **Motion passed unanimously.***

Philip K. Zietlow, Mayor

Attest:

Chad M. Adams, City Administrator