

MEDINA CITY COUNCIL MEETING MINUTES OF MARCH 1, 2005

The City Council of Medina, Minnesota met in regular session on March 1, 2005 at 7:00 p.m. in the City Hall Chambers. Mayor Workman presided.

I. ROLL CALL

Members present: Brinkman, Cavanaugh, Smith, Weir, and Workman.

Members absent:

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Public Works Director Jim Dillman, Police Chief Ed Belland, City Planner Rose Lorsung, City Planner Consultant Sarah Schield, City Administrator Chad Adams and Recording Secretary Liza Weniger.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

Adams requested removing item 4A from the agenda, **Minutes of the February 12, 2005 Special Council Meeting**, as he stated that staff was unable to complete the minutes prior to packets being mailed.

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

IV. APPROVAL OF MINUTES

A. Approval of the February 12, 2005 Special Council Meeting Minutes

B. Approval of the February 15, 2005 Regular Council Meeting Minutes

It was noted on page 1, the second line of the third paragraph under **Approval of the February 1, 2005 Regular Council Meeting Minutes** should state: "...the north side of Hamel Medina Road...."

It was noted on page 10, the thirteenth paragraph should state: "Cavanaugh stated that Council needs to come up with a consensus on a standard."

*Moved by Smith, seconded by Weir, to approve the February 15, 2005 Regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. COMMENTS

A. Comments from Citizens on Items Not on the Agenda

Randy Mayer, 762 Hamel Road, asked when the proper time would be to address the Ryan Development. His concern with the project is based on his angst of losing his biggest customer, Thorpe Distributing Corporation, who left town to take advantage of tax increment funding in Rogers. He stated that he has lost ninety customers that used to purchase gas at his station, and urged Council to find a way to bring in more people to the community. He stated that he believes this City has always been a two-tier City:

residents and the businesses. He asked if there would be a chance for his concerns to be addressed at a future forum. Mayer acknowledged citizen's concerns of highway development, further commenting that a median down the center of Highway 55 would reduce his business by 30%. He noted that the Ryan Development land has been vacant for a long time and is concerned about what will develop there.

Workman stated that the format for a public hearing is to take place at the Planning Commission. It is to the discretion of Council to welcome public comments for projects, but it has been the practice of the Council to allow public discussion.

Mayer stated that he would encourage Council members to acknowledge his emails, as he has sent some as of late.

Smith stated that she has sat in on some Planning Commission meetings and feels that it is unfair for an applicant to brag about how much tax base they are providing to the City to not let Planning Commission discuss. Smith noted that she has not received any emails from Mayer recently.

Mayer stated that with all the attention with Uptown Hamel lately, he wanted the Council to pay attention to other businesses in the City.

Smith stated she would never compare Highway 55 in Medina to Highway 94 in Rogers.

Bob Raskob, one of the owners of the Medina Ballroom and Hotel, stated that he had bought the ballroom property of 10.2 acres thirty-six years ago. He summarized how the property taxes have steadily increased each year stating that the ballroom and hotel pays over one hundred thousand dollars in taxes each year and brings a lot of business to the City of Medina.

Workman stated he hopes that everyone will be able to agree on any changes.

B. Park Commission

Dillman stated that the Park Commission will be discussing the Park Capital Improvement Plan at the March meeting.

C. Planning Commission

Lorsung stated that the Planning Commission, at the special meeting on February 22, 2005, recommended denial for the subdivision at 1475 Willow Drive, and approved the site plan, preliminary plat and CUP amendment for the Ace Properties retail expansion on Hwy. 101.

Lorsung stated at the next Planning Commission meeting, the Commission would be looking at the Uptown Hamel traffic study. The next City Council meeting on March 15, 2005 would be looking at 1475 Willow Drive as well as the uptown Hamel traffic study.

VI. OLD BUSINESS

A. Argent Parc - Darrel A. Farr Corp. Development – 185 Hamel Rd.

Schild stated that staff has met with the developer and Fire Marshall to discuss the fire lane access. The site plan approval resolution includes the Fire Marshall's requirement to construct the twenty-foot wide fire lane access. Staff has found that the Fire Marshall

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has discretion to make such requirements, despite this not being a requirement for other buildings in other communities (however, other variables such as the Fire Department's capabilities/resources should be considered). Staff is also researching what authority the Council has to overrule a Fire Marshall's recommendation, and what liability the City may have in doing so. If the fire lane/access is constructed as a requirement of site plan approval, a question remains of who should pay for the improvement.

Schild stated that Fire Marshall Loren Kohlen is present at the meeting to discuss his requirement.

Schild stated that another issue for Council to consider with the fire lane/access is the road plan for the Uptown Hamel area that will be addressed before the Planning Commission on March 8, 2005 and City Council on March 15, 2005. It may be likely that the east-west leg of Mill Drive will need an alley/access.

Schild stated that she spoke with the State Fire Marshall's Office who clarified an issue raised at the February 15, 2005 Council meeting. If a building is less than four stories, and is sprinkled, then a fire access is not needed. Schild stated that she also spoke with the fire chief of Orono and again clarified that anytime a building is sprinkled, then the fire chief, nor the Fire Marshall, is concerned about access other than a typical front access.

Kohlen stated that he has spoke with the chief and assistant chief of the Hamel Fire Department and they share his same concerns. A fire access is needed.

Kohlen stated that he has also spoke with Dillman about the construction of the construction access who relayed to him that a foot of rock would need to be put down to get construction vehicles in and out of the property anyhow. That very access would be the access that the Fire Department would also use and need.

Ben Schmidt, Farr Development stated he and Dillman met last week and he was informed that if his company did a good job of building a construction access road, and maintained it, then the City may consider paving the access as it paves Mill Drive.

Adams stated that in two weeks, a traffic study will be addressed and it may encompass the fire access issue then. The question tonight is whether to require other future projects to be held to the same standards, and if so, determine who would be responsible for paying those improvements.

Adams stated staff has researched if the City has any liability or risk for not adhering to the Fire Marshall recommendations, and deferred to Batty for comment.

Batty asked Kohlen how his recommendations were based, on discretion and/or code requirement. Kohlen stated both, and clarified that he has concerns with how the Fire Department would be able to have access to the property with only one fire hydrant, which is located on the corner of Mill Drive. Kohlen reiterated that the Fire Department needs access to the fire hydrant.

Kohlen further stated that he would not be concerned if the building was less than three stories tall and was an office/retail building rather than a livable space. However, this is three-story living quarters, and smoke, not fire, is often the biggest killer. The fire code

is about the only allowance that permits the Fire Marshall and fire chief to change the code as they see fit based on the welfare of people.

Workman stated that it does not make sense to have a hydrant without a road, furthermore stating that he agreed with Kohnen's comments.

Cavanaugh asked who would be paying for the construction of the access and what would be the cost to the City.

Adams stated that the cost issue has not been addressed yet. He asked Dillman for a cost estimate on the road.

Dillman stated that the only cost involved would be for the pavement, which is roughly \$8,000 if the developer provides a good gravel base.

Adams listed the following options on behalf of staff for Council discussion:

- Developer pays 100%, without public reimbursement
- Developer pays 100% upfront, and TIF District reimburses
- City orders public improvement, conducts public hearing and specially assesses benefited properties (with an option of TIF reimbursing the assessments and funding non-assessed portion)
- City constructs and TIF funds the cost
- City constructs and Road Improvement Fund funds the cost

Adams stated that staff recommends the developer pay the funds 100% up front, and Council should discuss options for reimbursement.

Smith asked if during future development, whether the property to the south would be charged or assessed for the fire access road.

Brinkman asked if curb and gutter was a requirement to the construction of the access. Dillman stated no. Brinkman stated that he is very concerned that good gravel be brought in and maintained.

1. Resolution Granting Variance

Schild stated that she recommends keeping in condition number 6.

Adams stated that number 6 of this variance and 29 of the resolution granting site plan approval may have to be amended to clarify how the access would be constructed and who would pay for it.

Batty stated that based on Council discussion, it appears that condition number 6 is what the Council wants. Batty stated that his understanding is that keeping 6 will address Kohnen's items of concern, and would remove the cul-de-sac and the outdoor sprinkler system from Kohnen's recommendations.

*Moved by Smith, seconded by Brinkman, to approve the Resolution granting approval of a variance for the Darrel A Farr Development Corporation for Property Located at 185 Hamel. **Motion passed unanimously.***

2. Resolution Granting Site Plan Approval

Schild stated that staff recommends approval of the resolutions with the conditions.

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Schmidt asked if condition number 14 was supposed to be changed. Kellogg stated that there were places where the access would not have to be twenty feet, as the condition presently requires.

Schild stated that for condition number 14, staff's recommendation would be to change the wording from twenty feet to ten feet.

*Moved by Smith, seconded by Weir, to the Resolution granting site plan approval for the Darrel A Farr Development Corporation for Property Located at 185 Hamel Road changing condition number 14 to read ten feet instead of twenty feet. **Motion passed unanimously.***

B. Ordinance Establishing Storm Sewer Tax District for Keller Estates – Public Hearing

Adams stated that this item was tabled from the February 1, 2005 meeting because the final plat application and rezoning was not ready for Council review. Because this item is not ready for approval, staff recommends opening the public hearing and tabling to the April 5, 2005 meeting.

*Moved by Weir, seconded by Cavanaugh, to table the motion and discussion of the Ordinance Establishing Storm Sewer Tax District for Keller Estates to April 5, 2005. **Motion passed unanimously.***

VII. NEW BUSINESS

A. Appointment to Planning Commission

Adams stated that the term of Planning Commission member Ron Johnson is expiring in March 2005 and staff has advertised for the opening in the Crow River News with a Monday, February 28, 2005 deadline. A late application from Doug Dickerson for appointment was received this afternoon, past the Monday, February 28 deadline.

Workman stated that it is customary to allow the applicants to speak in which Council will have a chance to comment.

Adams stated Ron Johnson was unable to attend the meeting tonight but had presented a qualifications letter to staff. Steven Jacobson was also unable to attend.

Jeff Pederson stated that he is reapplying for the position from the last opening.

Smith asked Pederson if after living in the community for an extensive period of time whether he felt the need to change the Comprehensive plan in the next few years. Pederson stated that the plan would need to be looked at. He remembers the plan from 1990 and remembered that it took a long time to make the changes that were made. He stated that he thinks that new planning would probably be needed.

Workman asked Pederson what he felt was the biggest challenge for the Planning Commission in regard to the City. Pederson stated that the traffic study will be the biggest challenge, and although the Ryan Development project is a good project, if the traffic is not taken care of properly, the roads, sewer and water would be greatly affected. He stated that a careful study would need to take place.

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Doug Dickerson presented his letter to Council members. Smith asked Dickerson if he foresaw a large amount of change from the current comp plan to a newer plan.

Dickerson stated that the plan is very sophomoric, and although it has set parameters, Planning Commission would need to take a look at the impact of the development and growth of the future, and from there, work backwards. Dickerson stated that his career focus is in marketing and research.

Workman asked what Dickerson feels is the biggest challenge for Medina. Dickerson stated the biggest concern is to keep Medina as a rural area while being open to development.

Brinkman stated that Council has four qualified candidates, however recommended Dickerson as being the most qualified candidate.

Adams handed out ballots and explained the voting process.

A revote was done for Pederson and Dickerson as there was a tie of two votes. Adams read the second ballots proclaiming Doug Dickerson as the newly appointed Planning Commission member by a 3-2 vote.

Adams stated two, maybe three, positions would be up for renewal in December 2005.

Adams stated that Dickerson's position would be effective starting at the Wednesday, March 8, 2005 Planning Commission meeting.

B. City Hall Facility Space Planning Report

Adams stated that staff and the building committee (Workman and Brinkman) have met with Maureen Steele Bellows Architecture to recommend improvements and a new facility space plan for City Hall. A report/presentation (including the improved floor plan for both up and downstairs) was provided on the recommended improvements. A discussion of the possible costs and budget of the recommended improvements also took place. Staff is seeking direction to authorize preparation of plans/specs if Council supports the plan.

Gary Demele, architect/space planner representing Maureen Steele Bellows Architecture, stated that the bathrooms would be adjusted to meet ADA standards.

Weir asked why the two bathrooms upstairs could not be combined as a unisex bathroom to save valuable space and budget dollars. Demele stated that due to the use of the building and state codes, the separate bathrooms are necessary.

Smith stated that her concern lies mostly with the loss of flexibility for larger Council audiences. Workman stated that he agreed; however that the new community building would accommodate the Council meetings anticipated to have a large turn-out. Smith asked if there was future flexibility for a building addition on the east end of the building in case the Council meeting grows as the City expands.

Adams stated yes, there are possibilities for expansion of additional office space and Council space.

Brinkman stated that with the results of the study, the new floor plan will be ample and sufficient for an additional five to seven years which is good considering the amount of money that will be spent.

Workman stated that he thinks the new Council chambers will seat 30-40 people, which is adequate for most meetings. The community building would be for when the meetings are anticipated to be larger.

Demele stated that this is the most effective plan and no space has been wasted.

Weir asked if the nature of the workspace would be cubicles. Adams stated that the work stations would be the same as the existing and the plan would allow for a more efficient staff work space.

Demele stated that all new ceiling and lighting would be installed and will be more energy efficient.

Belland stated that he likes the new lower level floor plan and feels that the plan will be sufficient for an additional five to seven years.

Workman asked if whether the space downstairs would continue to house public meetings or if those organizations would have to be moved.

Adams stated that would have to move out of City Hall, possibly to the Community Building if the Council chooses, and that many of the organizations presently using City Hall choose to meet at churches or schools.

Moved by Brinkman, seconded by Weir, to authorize preparation of plans and specs for the City Hall Facility Space.

Cavanaugh asked to see the upper level floor plan again and asked if in order to create extra space for storage, whether perhaps staff could consider collapsible walls for the conference room.

Demele stated that he would look into the collapsible walls idea, however would most likely not recommend it as it is not an economical and sound proof option.

Brinkman stated that staff should look into the costs of the change, and also consider adding another women's toilet stall upstairs.

Workman asked if the upstairs and downstairs record rooms could be combined. Belland stated no, as the downstairs may not be enough space as it appears.

Adams stated that staff would consider the Council's recommendations.

Motion passed unanimously.

C. Gramercy Club at Elm Creek – Affordable Housing

Batty stated that the developer is requesting a few changes to the affordable housing conditions that are currently outlined in the development agreement.

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Batty reviewed his memo and correspondence from the developer and addressed correspondence with the Metropolitan Council pertaining to the changes. One change involves using the current Met Council affordable housing figure (\$193,700) instead of the \$170,000 figure from three years ago, and then using the annual Met Council figure instead of a 1% increase each year. A second option is Fannie Mae. Fannie Mae has required that there be no restrictive zoning, of which Medina does not have. If any of the affordable units were foreclosed on, then limitations on resale would be not allowed. An amendment to the PUD agreement is needed if the Council is comfortable with the changes.

Rolfe Worden, attorney for Gramercy from Hinsawh & Culbertson LLP, stated that he has no contradictory comments to Batty's summary.

Batty stated that the City would agree to pick up two affordable units in which the City would be providing affordability. Twelve units would exist as affordable housing.

Workman asked for Council discussion.

Cavanaugh asked for further clarification on whether if one unit was to foreclose, if the entire affordable housing deal would be off.

Worden stated no, explaining that if there is a foreclosure and Fannie Mae is guaranteeing it, when the foreclosure buyer resells the unit to the market, the limit is off on only that one unit.

Batty stated that the City is not being asked to consent to the agreement; it is simply what Fannie Mae requires.

Dickerson asked whether the association fees of \$350/month would be lowered or changed for the affordable living units. Worden stated no, as it would not be fair for the association to subsidize the affordable living residents.

*Moved by Brinkman, seconded by Weir, to authorize staff to prepare the amendment to the development agreement to Gramercy Club at Elm Creek with its changes to the affordable housing conditions. **Motion passed unanimously.***

D. Creekview Townhomes – Request for Comprehensive Plan Amendment, Rezoning to PUD, Planned Unit Development Plan, and Preliminary Plat for 23 Townhome Units at 500 Hamel Road – Lynmore, LLC.

Schild reviewed the staff report for the requested comprehensive plan amendment, rezoning to PUD, PUD general plan, and preliminary plat for the twenty-three unit town homes at 500 Hamel Road. The Planning Commission has recommended approval of the request, however staff is recommending denial of the project. Staff's recommendation for denial is as follows:

- The application does not conform with the City's Guide Plan for this property, which is guided Urban Commercial. Furthermore, staff feels that such comprehensive plan change consider should involve a broader look at surrounding properties that may be affected. The City's next formal review of the comprehensive plan will begin in the next

few years, and staff recommends this is the more appropriate time to consider such amendments.

- The application's request for rezoning to Planned Unit Development does not meet the intent of a PUD. From a general planning principle standpoint, the City has created PUD's in the past to provide flexibility of regulations in return for public benefits from a development. Staff does not feel that there are public benefits that either match or exceed the private developer benefits from the project. The City Engineer has written a letter of concern to the developer.
- Even though the application is deemed "complete," staff is not pleased with the adequacy of the materials that have been presented to staff. For example, staff has outstanding concerns with the soils and floodplain boundary on the site.
- Comprehensive plan amendments demand substantial staff resources before the Met Council, in future staff meetings, developer meetings, Council meetings, as well as individual staff analysis. As discussed in the recent February 12, 2005 work session, staff resources are currently limited with existing and upcoming planning projects. Adams stated that Planning staff and consultants should be focusing more time on updating our codes, procedures, conducting code enforcement, GIS mapping upgrades, and completing out existing projects before taking on more projects through comprehensive plan amendments. Staff has learned from the recent Bridgewater comprehensive plan amendment that significant staff resources are required to complete such requests. Staff in other departments will be required to work on aspects of this project as well and other priorities take precedence over these types of requests.

Schild read aloud the Fire Marshall's recommendations, which were not part of the staff report.

Workman asked for clarification from Kellogg on whether the project could feasibly be built on this type of soil. Kellogg stated that he has not seen any of the necessary data supporting the building on these soils, however the main question of concern would be if the utilities could be installed and if so, how much soil correction would be needed.

Workman asked if the developer would prefer to work out the details before making his presentation to Council. The developer stated no.

Adams stated that staff would continue to recommend denial even if the soil borings were correctly presented. Adams again stated that the project does not fit the comprehensive plan as this property/area is guided commercial.

Smith stated that it was important for staff and Council to not consider any other project in this area until the Comprehensive plan is changed. She stated that she would never expect staff to make a decision until all the information is presented accurately, however, if there is absolutely no support from staff, then she would not want the developer to continue making further efforts for approval.

Brinkman asked how staff could deny recommendation of the development strictly for reasons based on the zoning.

Workman stated that it is Council's discretion to determine whether this would best fit the need of the City. And if staff is overloaded with applications and work, then it is not fair to overload staff with any more approvals.

Workman opened the agenda item for comment from Council.

Brinkman stated that there has been a lot of time and thought put into the comp plan. Affordable units would be nice, and there are structural problems on the project of which Kohnen could clear up. However, the soils are not good for construction of this type of structure, and the development's proximity to the pond and the creek are of concern.

Weir stated that the development is a reasonable use of the land but is too early in its timing. She stated that she is not in favor of changing the comp plan.

Cavanaugh stated that personally he would like to see office condos on the proposed site, however, Council would not be giving any of the parties a fair shake if policies or decisions were going to be changed in five years to reflect residential. The Council and the City needs to decide what it wants on that parcel of land.

Workman stated that the City does have zoning on the proposed property. His main concern is to support staff, as they are the people that have to deal with these types of decisions day in and day out.

Smith stated that she would be disappointed if staff had requested additional boring reports and have not received them. She stated that it is her personal opinion that there is too much commercial and would like to see more residential in Medina. She thinks that the developer has come at a bad time; the project is a good idea, but at the wrong time.

Workman stated that he would like to give the developer a chance to speak.

David Moore, President and owner of Lynmore, LLC., presented a preliminary application to Workman. He stated that the first time they were requested to present soil information was on December 13, 2004. On January 17, 2005, he received a letter requesting additional geographical information. He was given a two-page list of instructions on how to make corrections to the soil and property. Moore explained how his technological construction techniques would be ample and sufficient for handicapped housing despite the soil corrections.

Brinkman stated that he sees that there is enough information on the soils, however the bigger issues are what have been stated at tonight's Council meeting.

Moore stated that via public hearings, he has heard that this is a project that is wanted and needed in Medina.

Ron Brekke, Oliver and Associates, stated that this project has been presented and discussed since September 2004, and he does not understand why staff is now saying that they need an additional three to four years to review this area of development.

Workman stated that time is needed to review a comp plan change. Workman stated that Council follows the opinions of staff in which to create its ordinances and policies.

Brekke stated that he felt it was unfair that staff is now just making its determination after all this time.

Adams clarified that staff's concerns have been expressed in meetings with the developer and in the concept plan review meetings.

Carl Anderson, representing the developer, stated that he wrote the review report on the soil conditions. The land is appropriate for this specific type of individual project and each unit can be addressed on an individual basis. Brinkman stated that the soil condition is not the issue.

Batty commented for the purpose of bringing order to the denial. He stated that there is a hierarchy of land use issues, and the key issue is the comp plan. A comp plan change would be the first issue to contend with and a change to the comp plan would take a 4/5 vote. Another issue would be to determine whether a change is necessary for the comp plan.

Batty stated that if the motion is to deny, then there needs to be reasons clearly stated. Reasons should include inconsistencies with the comp plan as well as anything else that would be needed to be clarified.

Brinkman stated that the biggest issue is the comp plan.

Moved by Brinkman, seconded by Weir, to authorize staff to prepare a resolution to deny a comprehensive plan amendment from Urban Commercial to Multi-Family Residential for reasons based on inconsistencies with the City of Medina's comp plan.

Cavanaugh stated that it is important for the City to make a decision on what it wants with the proposed property to avoid future controversies.

Smith stated that she would vote against the motion as she feels the City needs more residential rather than commercial. She stated that it is her personal opinion that the proposed project would be a much better use of the land than commercial. However, the timing for this type of project is not right.

Weir stated that she is concerned that this is spot zoning, inconsistency with comp plan, and that City should evaluate this area as a whole, rather than just one development proposal.

Vote to direct staff to prepare the resolution for denial, 3-2 (Cavanaugh and Smith).

Batty stated that there should be a vote on each of the items consistent with what was done with the comp plan.

Moved by Brinkman, seconded by Weir, to authorize staff to prepare a resolution to deny rezoning from Urban Commercial to PUD for reasons based on inconsistencies with the City of Medina's comp plan.

Cavanaugh asked for clarification of the motion.

Batty stated the key issue is the comp plan and all the subsidiary issues have to be dealt with. Council has set a pattern and re-zoning needs to be consistent with the comp plan.

Vote to direct staff to prepare the resolution for denial, 4-1 (Smith).

Moore asked Council why none of these issues were brought up in September of 2004. Workman stated concerns were presented in September and that there was a different type of Council back in September.

Moved by Brinkman, seconded by Weir, to authorize staff to prepare a resolution to deny a PUD (Planned Unit Development) general plan based on inconsistencies with the City of Medina's comp plan.

Vote to direct staff to prepare the resolution for denial, 4-1 (Smith).

Moved by Brinkman, seconded by Weir, to authorize staff to prepare a resolution to deny a preliminary plat to allow twenty-three town home units on the 8.64 –acre property located north of Hamel Road, south of State Highway 55 and west of Sioux Drive based on inconsistencies with the City of Medina's comp plan.

Vote to direct staff to prepare the resolution for denial, 4-1 (Smith).

E. Ordinance Amending Section 825.33 of Code of Ordinances Regarding the Planning Commission

Adams reviewed the ordinance, which revises the term ending for Planning Commission members to December 31, instead of the current practice of March. The revision will conform to other appointments the Council makes each year. Staff is recommending approval of the ordinance.

*Moved by Smith, seconded by Weir, to approve the Ordinance amending Section 825.33 of the Code of Ordinances Regarding the Planning Commission. **Motion passed unanimously.***

F. Amendment to Antenna Site Lease Agreement – Verizon Wireless (VAW) LLC

Adams reviewed the amended agreement that has been prepared by Bob Vose from Kennedy and Graven. Verizon Wireless requested replacement of antennas on the Hamel Water Tower, which required a change in the agreement and triggered an opportunity for the City to amend other parts of the agreement. As indicated in the correspondence, new antennas will be approved as part of the agreement. Staff has reviewed a structural analysis of the change and finds the impact to be minimal. The compensation will increase as part of the agreement (staff is also pleased to report that previous compensation has been made in a sufficient manner). A provision to provide the City with cell phones is being deleted and being replaced with cash. Staff is also seeking \$1,500 to process this amendment request. Staff recommends approval of the amendment.

*Moved by Weir, seconded by Smith, to approve Amendment No. 1 to Amended Antenna Site Lease Agreement. **Motion passed unanimously.***

VIII. CITY ADMINISTRATOR REPORT

A. Rainwater Park Plan

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Adams outlined improvements to a new "Rainwater Park" that will be located just north of the Hunter Drive/Hamel Road intersection. The Park Commission discussed this park at their February 16, 2005 meeting and recommended moving forward with some of the plans.

Adams stated that staff recommends this plan be sent back to Park Commission to consider its prioritized status in relationship to other improvements that are currently under construction or on the table (i.e. Hunter Drive, park maintenance, community building site improvements including a fire pit, parking lot pavement, basketball court, park entrance signs, trail improvements, playground equipment, skating rink expansion, concession stand, open space planning, boat ramp, etc.). Staff also recommends that a more comprehensive plan, as the Council has requested by June 2005, be submitted before moving forward with this project. This Rainwater plan is not currently a budgeted item for 2005. Staff encourages Council discussion.

Weir stated she sees some urgency in installing a culvert across Hamel Road west of Hunter Drive, as it will intercept 75% of the storm water that currently travels farther west and dumps directly into Elm Creek. She also stated that she felt the Council should proceed with constructing a water garden (not a rain garden) with a Forebay at the outlet end of the new culvert so that City does not have to be fighting bank weeds.

Smith stated that she agrees with Weir's comments. The seeding has to be done anyway to prevent further erosion.

Workman asked where the money would come from to fund the improvements. Smith proposed the environmental fund.

Adams stated if Council all agrees with the improvements, then he would request at least two extra weeks to review the funding. He further stated that this proposed plan is poor planning from a financial standpoint, and that staff has been recently advised by Council to not "spring" these requests on the Council, thus the recommendation for tabling this item back to the Park Commission.

Smith stated she agrees and would be willing to table the discussion and approval.

Lorsung proposed that grants could be researched for this type of project.

*Moved by Smith, seconded by Cavanaugh, to table the Rainwater Park Plan for staff to further research. **Motion passed unanimously.***

Adams stated this item may be on the March 15th meeting for discussion.

B. Hamel Community Building

1. Operating Policy Amendment – Alcohol Use

Adams stated that staff has researched options for procedurally allowing alcohol use in the Hamel Community Building through the City's insurance agent, attorney and other communities. Staff recommends that the Council consider the following policies:

- All renters/users that include alcoholic beverage consumption as part of an event are required to provide the City with a Certificate of Liability Insurance for the period of time of the event, naming the City as an additional insured, in the amount of \$500,000.

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- All renters/users that sell alcoholic beverage consumption as part of an event are required to provide the City with a Certificate of Liability Insurance, naming the City as an additional insured, in the amount of \$500,000; and, dram shop insurance must be held by the renter/user (or caterer); and, a liquor license must be obtained from the City (for 3.2 malt liquor, one-day set up) or be on file with the State of Minnesota.

Workman asked what the current alcohol policy was for the building. Adams stated that anyone that wants to bring their own liquor and provide it, not to sell, would be subjected to higher rental/user fees and a higher deposit.

Workman stated that he foresees problems with the policy and feels it is too relaxed.

Brinkman asked for Belland's opinion. Belland stated that the City of Independence has their community building attached to the City Hall and so there is more of a watch placed on the building and its activities. Some cities have demanded that a caterer or a hired licensed officer be present at such events.

Workman stated that he too has heard of Belland's mentioned policies in other cities. Workman proposed that the liability policy, with the City listed as the additional insured, be increased to \$1,000,000

Belland stated that the Police Department would have to bid the officer's time as overtime if the City was to choose that option. The renter would pay for the officer's time.

Adams suggested as a creative option that if the Police Reserve was willing or had enough volunteers, that they could staff events and reimbursements for their time would go back to their program.

Cavanaugh asked if anybody was in favor of restricting alcohol altogether.

Adams stated that only one party has applied for a liquor use permit as of yet.

Belland asked about the Lions and their meetings and whether alcohol would be permitted. Workman stated that the Lions would be held to the same policy.

Workman asked for suggestions or criteria for which staff to research.

Staff acknowledges that they will address this issue again in two weeks.

*Moved by Weir, seconded by Smith, to temporarily require all renters/users that include alcoholic beverage consumption as part of an event to provide the City with a Certificate of Liability Insurance for the period of time of the event, naming the City as an additional insured, in the amount of \$1,000,000. **Motion passed unanimously.***

2. Building Improvements

Adams stated Staff and the Park Commission are recommending that a few necessary improvements be made to the Hamel Community Building, possibly through Park Dedication Funds or donations. The two most pressing improvements being recommended are a water softener and rain gutters/downspouts. Staff has received quotes on these items and is recommending approval. Staff is also recommending

approval of removing the fire pull stations in the outdoor bathrooms/warming room and being replaced by heat sensors. A rough estimate on these three recommendations is \$9,000. In addition to these items, staff has discussed additional funding for:

- Improving the Sound/Acoustics in Assembly Hall with wall hangings
- Sign for "Hamel Lions Assembly Hall" and logo
- Pedestrian Trail link to building
- Fire Pit/Garden (possibly donated)
- Fire Lock Box & Key Drop Box
- Recycle Bins
- Additional Grass seeding/sodding (in Spring)
- Funding shortfall on consultant/equipment expenses

Smith proposed insulating the mechanical room better, as a vent by the meeting area made it difficult to hear at the recent Horse Owner's meeting.

Brinkman stated that he has an acoustical testing machine that he would be willing to donate the use of to help with the acoustical improvements of the room.

*Moved by Smith, seconded by Weir, to recommend the improvements for up to \$10,000 to purchase the water softener, gutters, lock box, and heat sensors. **Motion passed unanimously.***

C. Schedule Annual Work Session with Planning Commission

Adams stated that at the February 12, 2005 goal setting session, the Council expressed interest in continuing an annual work session with the Planning Commission, and Park Commission. At the February 22, 2005 Planning Commission meeting, members of the Commission recommended a work session with Council to discuss their level of involvement in considering economic/financial implications on projects and/or the community (i.e. TIF). Staff has strictly advised the Planning Commission that such discussions are a Council responsibility, not Planning Commission, and that the Planning Commission needs to focus on land-use implications. March 8 and April 12, 2005 are the next upcoming PC meetings.

Smith stated she believes it would be best to have both the Park and Planning commissions meet with Council. Weir asked if it would be unmanageable to have all three groups together. Workman stated the work session could move fairly smoothly with an agenda.

*Moved by Smith, seconded by Weir, to schedule a joint meeting for Planning Commission, Park Commission and the City Council at 7:00 p.m. on April 12, 2005. **Motion passed unanimously.***

D. Schedule Annual Work Session with Park Commission

Adams stated that at the February 12, 2005 goal setting session, the Council expressed interest in conducting an annual work session with the Park Commission. March 16 and April 20, 2005 are the next two Park Commission meetings (May is their annual tour of parks).

*Moved by Smith, seconded by Weir, to schedule a joint meeting for Park Commission, Planning Commission and the City Council at 7:00 p.m. on April 12, 2005. **Motion passed unanimously.***

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Council Reports

Cavanaugh read the following statement:

"It has come to my attention that some questions have been asked regarding a transaction I was recently involved in. I feel it is necessary to set the record straight.

"In January, I looked at a piece of property in Hamel which is part of an estate. After looking at it, I decided not to go forward as I purchased another home shortly after that. Before the sale of the property from the estate, I was contacted by one of the heirs to the estate asking for help organizing the purchase of the property. As my family has known this person for many many years, I agreed to help. We also discussed that if he was able to purchase the property, I would be interested in buying a portion of it, and in principle, he agreed.

"The estate had three offers; the heir's offer was the highest. The personal representative of the estate chose to give the property to a lower bid from a local developer for reasons I can only guess at. Unfortunately, there appears to be conflict among the personal representative and the other heirs. I tried to speak with the personal representative to solve the problem, but without avail. Attorneys have been contacted.

"Another member of this body contacted me to let me know someone called them and said that I acted in some way improperly and that I had many undisclosed interests in properties throughout the City. I thank this person for bringing this to my attention rather than continuing the rumor mill.

"I believe I have been more than forthright regarding any properties I have interest in. I am happy to discuss concerns anyone has in a public forum. I have discussed this matter with Ron Batty, City Attorney, and he sees absolutely no problem with my actions.

"I am prepared to answer any questions you may have."

Workman stated that in fairness, Cavanaugh has disclosed property that he has owned in Uptown Hamel, and in any interest in land throughout the City of Medina.

Smith stated that there are maybe some other people on Council that also own property throughout Medina.

Batty stated that it is inevitable that there may be conflict as there are some people that live in the district they serve. He informed Council to be conscious of that, and reminded everybody of the potential for conflict and how to deal with it. Batty stated that when in doubt, better to disclose than to not. He stated that he is not advocating disclosing all personal financial information; however there may be a question on disclosing financial interest on items of conflict.

Batty informed Council to be aware of when there is a financial interest, and when to remove oneself during a discussion or vote of financial interest. Batty summarized his discussion by reminding Council to not refrain from voting unless there is a conflict with the voting at hand.

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Weir thanked Cavanaugh for being upfront and honest.

Weir asked if any progress was made on the MN Land Trust demonstrating interest in the buffer/conservation easement of Leawood Farms.

Batty stated that Ann Theis, with MN Land Trust, is not interested. However, she would like the opportunity to speak with Council on how to acquire and hold a buffer/conservation easement the correct way.

Lorsung stated that the MN Land Trust does not hold buffer strips, only large outlots.

IX. APPROVAL TO PAY THE BILLS

Moved by Smith, seconded by Weir, to approve the bills order check numbers 027615-027658 for \$140,389.00 and payroll check numbers 019122-019139 for \$24,973.90.

Motion passed unanimously.

X. ADJOURN

*Moved by Smith, seconded by Cavanaugh, to adjourn the meeting at 9:50 p.m. **Motion passed unanimously.***

Bruce D. Workman, Mayor

Attest:

Chad M. Adams, City Administrator-Clerk