

## **MEDINA CITY COUNCIL MEETING MINUTES OF JUNE 21, 2005**

The City Council of Medina, Minnesota met in regular session on June 21, 2005 at 7:02 p.m. in the City Hall Chambers. Mayor Workman presided.

### **I. ROLL CALL**

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

**Members absent:** Smith

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Police Chief Ed Belland, City Planner Rose Lorsung, City Planner Consultant Sarah Schield, City Administrator Chad Adams and Recording Secretary Mary Pappas.

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

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

None.

### **IV. APPROVAL**

#### **A. Approval of the May 17, 2005 Special Council Meeting Minutes**

*Moved by Weir, seconded by Cavanaugh, to approve the agenda. Motion passed unanimously.*

#### **B. Approval of the June 7, 2005 Regular City Council Meeting Minutes**

It was noted on page 12, the 7<sup>th</sup> paragraph, it should state: "each business must create one full time job."

It was noted on page 4, the 4<sup>th</sup> paragraph from the bottom, it should state: "Cavanaugh asked when the Target park dedication funding would come in."

It was noted on page 6, the 9<sup>th</sup> paragraph, it should be stricken: "~~Cavanaugh asked what are the costs here.~~"

It was noted on page 7, the 9<sup>th</sup> paragraph, it should state: "Cavanaugh asked what is the contingency line item for."

It was noted on page 10, the 3<sup>rd</sup> paragraph, it should state: "...and it needs to be liberal enough so the Council..."

It was noted on page 10, the 11<sup>th</sup> paragraph, it should state: "...that restrictions on business could force small businesses to move from Medina to Plymouth where such restrictions do not exist."

It was noted on page 12, the 4<sup>th</sup> paragraph, it should state: "...which is scheduled at a later date..."

It was noted on page 16, the 6<sup>th</sup> paragraph, it should state: "...asked what types of offenders are primarily being arrested."

It was noted on page 16, the 11<sup>th</sup> paragraph, it should state: "...Independence would require that residents hook-up if the tested septic systems failed."

*Moved by Weir, seconded by Cavanaugh, to approve the June 7, 2005 regular City Council meeting minutes as amended. **Motion passed unanimously.***

## V. CONSENT AGENDA

- A. Resolution Approving CBDG Joint Cooperative Agreement
- B. Resolution Authorizing Execution of CBDG Joint Cooperative Agreement
- C. Resolution Approving Conservation Easement with Robert Bradley
- D. ~~Approve Liquor Licenses, July 1, 2005 – June 30, 2006~~
- E. ~~Resolution Approving Lot Combination for Dairy Queen~~
- F. Approve Raffle Permit for Church of St. Anne's at 200 Hamel Rd. on August 27, 28, 2005
- G. Approve On-Sale 3.2 Malt Liquor License to St. Anne's Church for August 27, 28, 2005
- H. Approve Independent Contractor's Agreement with Twin City Striping
- I. Approve Independent Contractor's Agreement with Ken's Snowplowing and Bobcat Services
- J. Approve Special Charge Agreement with Wright-Hennepin Electric Cooperative Association
- K. Resolution Granting Final Plat and PUD Final Plan to Bridgewater at Lake Medina
- L. Approve Development Agreement with Charles Cudd Co., LLC – Bridgewater at Lake Medina
- M. Ordinance Approving Genera Plan of Development and Rezoning Property to Planned Unit Development-Single Family Residential (PUD-SFR) – Bridgewater at Lake Medina
- N. Resolution Authorizing Publication of Title & Summary Consent Agenda Item M.
- O. Approve Water Service Agreement with Maple Plain (re: Park Ridge Acres)

Workman asked to remove item D and discuss this before New Business and to move item E down to the City Administrator's Report from the consent agenda.

*Moved by Weir, seconded by Cavanaugh, to accept the changes to the consent agenda. **Motion passed unanimously.***

## VI. COMMENTS

### A. From Citizens on Items not on the Agenda

Lynette Larson, 2465 Morningside Road, asked if Medina has a noise ordinance.

Belland stated no, however, the City has a nuisance ordinance.

Dave Linck, speaking for residents in the Morningside neighborhood, asked if Medina has an ordinance that does not allow commercial businesses to be operated out of a residence. He added he has a petition signed and requests the City's help to get this to stop. He stated they want to live in a quiet development and added many residents consider it a life safety issue as well as a monetary issue.

Workman stated he was at this home occupation site earlier in the day and he agrees with Linck and added we need to look into this.

Adams stated in terms of code enforcement, the City Council has stepped up code enforcement issues and is reviewing code compliance citywide. He added if anyone is violating the ordinances, the City is giving the landowner a reasonable amount of time to come into compliance. If the City's deadline comes up, the City will take criminal or civil action and the City is looking at hiring more staff/consultants to provide more code enforcement services. He added residents should contact him or City Planner Lorsung with any complaints.

Lorsung stated she sent a letter to the property in question with a deadline and met with the owner about this issue. She added all citizens in attendance tonight have been informed of the process and making sure commercial businesses are not run from residential homes. She stated she had met with the resident also and the deadline has been extended to allow them to find a commercial spot for the trucks. She added she has been helping them understand the ordinance and added the City is trying to do our best. She also noted police chief Belland was at the meeting also and she has copies of the petition.

Karen Van Buren, 1400 Maplewood Drive, the home occupation resident, stated she wanted to come here and explain her position. She stated she was first notified of neighborhood complaints in a letter dated May 2 from Lorsung. She stated she has been working diligently to find commercial property, but there is not much available. She added she may meet the June 30 deadline, but for sure the July 15 deadline.

Lorsung stated first notification of May 2 was incorrect. She added before she joined the City, there were complaints and the last planner said this was a problem residence.

Workman stated he understands Van Buren will resolve this and added City staff and Council are very serious about this and will take action if this is not resolved.

Doug Hoskins, 3000 Hamel Rd., representing Bob Bradley of Hewitt Farms Development, asked if he needs to file the conservation easement.

Adams stated it will take a few days to execute it.

Hoskins also asked what the Leawood Farms Road ROW meant on the Administrator Report.

Adams stated this item is on the agenda and this had to do with clarification when the Council approved the final plat there was a change in the right of way on Hamel Road, from 50 to 33 feet.

**B. Park Commission**

Dillman noted they had a good meeting last Wednesday and the Capital Improvement Plan report is in the Administrator's Report.

**C. Planning Commission**

Lorsung stated the Commission had a good and productive meeting. She noted the Commission discussed the concept plan for Ace properties and the zoning code, and stated they will be updating and goal-setting this summer. Lorsung noted Ryan Companies was discussed seeking approval to adopt a resolution for final approval.

Lorsung also noted that staff is undertaking the first official review of conditional use permits, and some may be up for discussion at the July 5 Council meeting.

**VI. OLD BUSINESS**

**A. Wilkes Variance Extension – Public Hearing**

Lorsung stated the applicant's variance was approved last year to construct on the property, but because of a family illness, construction had to be postponed. She stated a public hearing is needed to get a 6 months extension of the variance.

Workman opened the public hearing at 7:23 p.m.

Workman closed the public hearing at 7:24 p.m.

*Moved by Weir, seconded by Cavanaugh, to extend the variance for the Wilkes Extension. **Motion passed unanimously.***

**B. Approve Liquor Licenses, July 1, 2005 – June 30, 2006**

Weir asked to discuss the liquor license and if it had ever been volume or space related and wondered if it would be reasonable to ask staff to come up with an alternative for establishing liquor licenses.

Workman asked if Weir was talking about it being size-related. Weir stated she was talking about it being volume of sales related.

Adams stated staff doesn't have any strong recommendations either way, and hasn't received much complaint from businesses. He stated staff believes the square footage is a better way to figure it, and is more equitable than a flat fee for all the establishments. He added sales are a good indicator, but may be difficult to receive applicable documentation.

Batty stated the square footage is a unique system, and added staff has been comfortable with this system. He added staff has been waiting for someone on the Council to take the initiative here, but it is too late for this year.

Weir stated she would be happy to make some inquiries from other cities and bring information back to the Council.

*Moved by Weir, seconded by Cavanaugh, to approve the liquor licenses. **Motion passed unanimously.***

## VII. NEW BUSINESS

### A. Ace Properties – Concept Plan Review and Realignment of Clydesdale/101

Adams stated the concept plan for an Ace Properties expansion has been reviewed by the Planning Commission. He added staff is seeking Council comment on the plan, but most particularly on the road realignment.

Lorsung stated Ace Properties did discuss this concept plan at the last Planning Commission meeting. She added, as of today, staff is recommending a road realignment plan that is a different plan than what was viewed recently, including significant grading changes. She noted all adjacent property owners have come together in developing this concept plan and it has been an evolving process.

Lorsung presented slides of Ace properties on the corner of 101 and Clydesdale. She stated Ace has an existing retail strip center and wanted a second parcel to south.

Lorsung presented the plan the Commission looked at for the realignment of Clydesdale and the Commission was to give a recommendation about variances and planning. She added there was a good discussion about various items, including financial matters, and in the end the Commission was leaning towards being favorable about the plan being more developed at this new site.

Lorsung stated there would now be some shared parking partly on the Ace lot and partly on Ryan's lot. She added the county is limiting the north 101 access of Ace to a right-in only and staff has not had a chance to thoroughly review this. She added there will be a number of variances needed here or a PUD, but the developer is looking for some suggestions for the concept plan at this point only.

Cavanaugh asked if all property owners are in favor of this change. Lorsung stated staff has a letter from Joe Francis with Holiday, and Mark Gilbertson the Valvoline representative, and both are at tonight's meeting. However, she added Valvoline has not given their formal response as yet. She added Valvoline would like to see the final specs first.

Brinkman asked who was the engineer that did this work on the plan.

Dick Kopy, Ryan Companies, stated they worked with all the parties, including the County and the City on this project and commented on the following 5 points:

1. Target parking lot – the old plan had parking going into both sides, now this has been cleaned up.
2. Now there is only one drive into the Ace development, while before there was a second drive.
3. There are now separate drives for Valvoline and Holiday. Valvoline wanted to see separate drives and now Valvoline lines up with the Target drive.
4. The southwest corner used to have a driveway to Target, and now it has been removed as the east and south driveways will be adequate.
5. It has been agreed to allow a parking encroachment on the lot and this helps Ace out. Now there is a 28 vs. a 24-foot drive.

He added overall, Ryan has heard a good response from other members involved here.

Workman asked how many parking spots were lost. The developer stated they actually gained seven spots with the change.

Brinkman stated he would like to see a traffic engineer take a good, hard look at this change, so we make sure we don't end up with a bottleneck on Hwy. 101. He added no matter what it takes, we need to work together so this is not a problem.

Adams stated there have been three or more formal traffic engineers working on this project through City, County, and Ryan Companies and they have cooperatively voiced their support for this design.

Brinkman stated he would like to see the signatures, showing this will work and warrant also that it will work when it is all done. Adams stated the City staff and engineer has approved this, and reminded the Council that this is a concept plan.

Lorsung added the engineers support this design.

Weir asked staff if they could go through the variances in question. Lorsung stated without the roadway was an acre, but by roadway being dedicated is now under an acre. She added there are setback issues for parking, impervious surface and hardcover would be leftover. She noted there is a setback issue for the existing building to the lot line of the new property, and there are landscaping requirements.

Weir stated another option was to consider a PUD. Phase 1 to the north would be a separate PUD. Ace properties could then be a conforming use. She added this seems to be a compelling issue. Lorsung agreed.

Weir asked if the 30,000 square feet being referenced is a loss of land or building. Lorsung stated a loss of land.

Weir stated if we make it possible to use the land even though it is reduced, it seems to be a less compelling issue.

Workman stated we will do it one or another, but we won't pay for both.

Larry Palm, Ace Properties, stated this won't work as it will reduce his building and they have had many expenses, which they are not getting compensated for.

Workman stated the City may have to do an eminent domain.

Brinkman stated a road will go right through the area and Ace Properties will get a benefit here.

Palm stated this is not a benefit with what the City is leaving them, it allows them the opportunity to build and they had this opportunity before all this started.

Workman stated this is the project the County and City likes and added Ace Properties knew there was potential of a large retail piece going in next door. Palm stated he did not know.

Workman stated Ace Properties had knowledge of this and asked then if he was not willing to sign on with current concept. Palm stated the plan being displayed on the slide is a good plan but it is asking them to go from a 12 to a 30-square foot price and it is an unfair imposition. He asked how will the 9,000 square feet building support a 30,000 loss of land.

Workman stated he did not know and would have to put this back to staff to re-figure. He added that the Council is here to go over the concept plan.

Workman stated we would not subject the city taxpayers to pay for half a million dollars on this. Palm stated the Council would, however, subject them to paying it.

Cavanaugh stated the applicant is gaining parking and variances on setbacks and will have to work this out. Palm stated that's what they have been trying to do.

Lorsung stated they have been working on the land review and not the financial piece. She added this is a good outcome and a very viable project, but added she cannot comment on the financial piece, as it is not her job to do so.

Workman asked Batty, if we decided to go with the plan as it is, do we leave the Ace part out and deal with it later. Batty stated yes as the Council is only dealing with the concept plan at this point and Ryan will have to change their plan.

Brinkman asked if there was any thought to changing the road. Lorsung reviewed the first plan showing the road and then went south at a 90-degree angle and was poor traffic planning.

Brinkman stated that was not what he was asking, and referred to the slide and straightening the road out.

Lorsung stated part of this planning process involved the current area businesses and owners and staff wanted to have the least negative impact with this plan.

Brinkman stated it is a bad design, will be a problem, and will create a bottleneck.

Lorsung showed where stop signs could be added.

Brinkman added the Holiday situation is also riddled with all sorts of traffic issues.

Lorsung stated staff has had more discussions on this and will take the comments from Palm and help Francis with this situation.

Lorsung stated Ryan Companies is looking to lower their site. She added there will be a lot of topography changes.

Batty stated the existing north Ace parcel is not in the tax increment district, but the southern part is. He added there is a property line that needs to be recognized and the way to get rid of that is to combine the properties. He added you can't have a single parcel half in or half out.

Brinkman stated we need some engineers to provide input.

Lorsung asked what is the "red flag" area.

Brinkman pointed out the bottleneck area, and added if it were straightened out, it would help.

Kopy stated if Brinkman wanted another traffic engineer to look at this, that is fine. But, site planning is not easy and there have been many engineers involved, the County, the City, Ryan, Valvoline, and Ace have all looked at it. He added there are problems, but we can't leave it as the original Clydesdale Avenue.

Palm and Kopy stated they would be happy leaving Clydesdale Avenue alone.

Adams and Lorsung stated that leaving the Clydesdale/101 intersection would be poor traffic planning, would not improve public safety at the intersection, and may lead to a right-in/right-out there someday, which would negatively impact traffic flow to businesses.

Weir stated we are only looking at the concept plan tonight.

Adams stated staff is not looking for a vote, they just want each Council member's view of the plan.

Kopy stated based on conversations tonight, this will take time to do and they don't have a lot of time. He added this situation wasn't part of the conditions and added Ryan has been cooperative.

Brinkman stated to Kopy that they do have time on this project.

Dick Brooks, Ryan Companies, stated no we do not.

Lorsung stated Ace is still looking for a drive through. She added staff had a meeting with Ryan Companies and with the realignment, the City wants Ryan to grade and link up with the existing right-of-way.

Brinkman stated this is not a solution.

Workman stated the biggest uncertainty is what happens to Ace.

Joe Francis, Holiday Stationstore, stated he likes where Clydesdale is today, but it will create a serious traffic problem on 101. He added he does think this is a very good plan and the engineers have studied it. He added he would like to see it approved as shown and commended staff for their cooperation.

Mark Gilbertson, Valvoline representative, stated they like the concept, but there are some questions on the land they are losing and the grades. However, he stated, overall they are pleased with this concept.

Workman asked if there will be land loss on the Valvoline site. Lorsung stated this is just in the preliminary stage now, but yes possibly through easement or dedication. The effects on land use will be reviewed.

Gilbertson stated they are meeting the one-acre requirement and as this develops further, he will see the grades on the road and move to the next step.

Brinkman asked if the County has approved the ponding situation. Lorsung explained if the Ace Properties plan is not developed, it is not needed.

Lorsung stated this will have the same number of access points and will not be changing.

Brinkman asked Lorsung if she was saying this cannot improve at all, as a total plan. Lorsung stated the plan to the north shows a road going to the north, but the City didn't want it to go through the property.

Brinkman asked if Lorsung has found the traffic plan will work as it shows on the screen. Lorsung answered in the affirmative.

Workman reiterated the engineers have looked at it.

Shield stated we do have the signal justification report, which also talks about connections with County Roads 116 and 101. She stated all of the engineers have reviewed this and feel it is an improvement to the initial plan. She added in relation to Brinkman's question, this has all been analyzed and this is an improvement.

Brinkman asked if this is ancillary and not the main road. Shield stated TH 55 is the main access and the proposed light on TH 55 is warranted.

Palm stated he would like an answer on Ace's piece in the concept plan, whether this is moving in the right direction.

Brinkman stated he does not see why Ace can't expand their building to the north to get more square footage.

Workman stated if they do more square footage, it changes parking and other things.

Palm stated because they have been at this for so long, they need clear direction as to how to proceed.

Adams stated he is hearing a consensus of positive comments from Council to move forward with additional discussions with Ace.

**B. Ryan Companies (Target) – Final Plat, Final PUD Plan Approval**

Shield stated staff is seeking direction from the Council on whether to prepare the resolutions of approval or to wait until the July 5 meeting. She added staff would recommend, at this point, to provide a draft for approval.

Shield pointed out the more obvious changes that have occurred. She stated the bank location has been resituated, which adds some parking to the north of the bank location. She stated staff had a concern as to where parking would be, and there are three additional parking spots added here and a landscape island, bringing it closer to the street frontage, and making it more pedestrian friendly.

Shield added staff had talked to Ryan Companies and they said this should not hold up their project. However, there is concern about the MnDot parcel and the Batty has said we are not ready to give stamp of approval here yet.

Workman asked if she was just saying she didn't know the timing of the project. Shield stated she did not know if it can be done. Workman stated the Council could make it a condition.

Batty stated the issue was that the City assumed MnDot owned the property in question and would give it back to the City. He added all of the right-of-way in the Ryan plat will be dedicated to the City. He stated if MnDot would be willing to turn it back to the City, it would be fine; however, MnDot has an easement and asked if MnDot is capable of giving the City their interest.

Workman asked what is the time line. Batty stated there is no specific timeline.

Workman asked if the Council can approve subject to this condition. Batty stated yes, the Council would have staff prepare resolutions and bring them back. However, the issue would have to be resolved with MnDot to the City's satisfaction.

Schild added the Council approved the lighting for 18 feet in height and after meeting with Xcel Energy, found they don't make a pole that short. It will have to be an 18.5 pole with a retaining wall. Shield showed a slide of the retaining wall.

Shield stated Ryan needs to also meet the requirements of the matrix for signage and added overall the signage does conform.

She added the approvals for the wetland and permit application will be on the July 5<sup>th</sup> agenda, at the same time the resolutions are on the agenda.

Schild stated the one fountain is an item that needs clarification due to the fact there is a drop in elevation. She stated staff did not make a strong recommendation on having one or two fountains, and there is quite a bit of cost involved.

Schild stated regarding traffic, the main concern is the bank lot and parked vehicles backing up in the drive aisle. She added the parking appears adequate, but there may be some changes. It will need to be analyzed again.

She added Clydesdale Trail will need to be rerouted from Hwy. 101 and there will need to be changes to the ballroom's private road. Staff would need to look at an agreement on this issue.

Schild stated Ryan has concerns with a comment from the Fire Marshal about the sprinkler system and will set up a meeting with the Fire Marshal to discuss the requirements, similar to the Rogers Target store.

Shield stated Item #3 can be removed and added one recommendation includes that the plan shall meet the conditions of the MPCA. She stated this appears to be a non-issue, but she wants to adhere to any conditions in that memo.

Workman stated a possible future proposed drive through makes him nervous. Dick Brooks stated they would have to come back to that.

Shield stated the general plan for PUD states no drive-ups so Ryan would have to come back and ask for that.

Workman stated the Council should go through list of items:

1. Landscape and Fountain

Workman asked if the pond is in the back. Lorsung stated there is very dense landscaping there and staff was recommending putting in 2 fountains.

Weir asked about the northern pond and stated if this is heavily landscaped, it should be fine, without a fountain, as the neighbors will not have any sight of the fountain.

Brinkman asked if they will use the fountains for aeration. Kopy stated there is water movement, but it does nothing for water quality.

Schild stated that one fountain in Outlot B will remain based on comments heard tonight.

2. In-line parking - adjacent to retail

Brinkman stated it is nice to have parking, but people will have to watch out. He added he would like the cars to park head in.

Kopy stated this is also a traffic quieting technique.

Workman stated he wants to require more handicapped parking.

3. Fire Marshal – running a domestic line and fire line for water

Kopy stated this is a standard operation they do all over. He added they will meet with the Fire Marshal and discuss this issue further.

Workman stated the Fire Marshal may be talking about a safety issue.

Kopy stated they talked to Target on the cul-de-sac and every store in the in metro area has this in the same spot and found it is all right for turnaround.

Workman stated the front of the building is more accessible as fire fighters don't always know at first where to go to fight the fire. He added the City wants Ryan to negotiate with the Fire Marshal on this, and added the Council won't compensate on this issue.

*Cavanaugh made a motion, seconded by Weir, to authorize preparation of the final plat and final PUD plan approval. **Motion approved.***

Weir asked what is a "junior box" sign. Kopy stated it is like an Office Max, one store that is about 20,000 feet; a smaller retail store.

Lorsung pointed out that signage has been reduced from the original plan.

Weir stated the Council does not want big or heavy signs.

Lorsung stated the signage is nice architecturally.

Weir asked if it is possible to have a stop sign for each of the bank drive thru lanes for safety.

Workman stated usually a solid white or yellow sign is painted on the pavement.

Lorsung added there is a plan to show where stop and yield signs will be.

Schild stated staff will have the traffic engineer look this over as well, to get his comments.

Weir asked if the east entrance to the ballroom is closed, will the only entrance be the west entrance. Weir asked if two entrances are not needed for safety. Schild stated the north side will also have an entrance off Clydesdale, and there will be a new east entrance off Clydesdale.

Weir asked about the contaminated site. Kopy stated some drums were found and it was indicated there was some surface contamination. He added Ryan's environmental partners would clean this up if needed. He added there has been an inspection and they have removed anything that was contaminated on the site.

## **1. Elements of Financing Public Improvements**

Adams stated staff is not seeking any direction on this tonight. He added staff is close to completing the final list of public improvements and cost estimates. The 101/Clydesdale intersection has slowed down the final cost estimate for the improvements. Ehlers and Associates will update the Council on the proforma analysis, as well as Batty will discuss the pay as you go concept.

Batty explained the possibility of a pay-as-you-go arrangement whereby Ryan would build the improvements and finance them, while the City would convey assistance by a tax assistance note. He added this would be a revenue note, and the City would pay the developer over time. He added he likes this from the City standpoint, because if Ryan doesn't pay, the City doesn't pay. If Target is agreeable to this arrangement, staff will bring it back to the Council on July 5.

David Callister, Ehlers and Associates, stated they would look at how it would be structured. He explained what had been looked at in the past, the value of future income stream, and the value of those payments in today's dollars. He stated this would be \$1.4 million over 10 years. He added the interest rate is 6% and the term is 20 years. He added there is a 3% increase in tax value per year and emphasized in the first years, there is an interest only payment. The loan would be paid between 9 –10 years.

Batty stated the pay-as-you-go note is a bond and a form of obligation. He added if there is no increment, we don't pay it and if an increment comes in at a rapid rate, these payments will actually be larger because payments will be set at available tax increment.

Cavanaugh asked what happens after 10 years. Batty stated it would be Ryan's responsibility.

Batty stated with more improvements on the building, more taxes that will be incurred so over time, the property taxes will go up. He added the City would always be paying the 90 or 95 percent of the amount that comes in against the constant number, so it could likely be paid off early.

### **C. Keller Estates subdivision – Final Plat Approval**

Schild stated the Council approved the preliminary plat and, at this time, there are no changes to the plat. She added after many discussions with the consultants, the issues have been ironed out. She added the agreement was approved by Medina, and now needs to be approved by Orono and Long Lake and presented as a condition. She added this addresses progress on the application and staff recommends resolutions be drafted for approval.

Steve Bole of Long Lake stated he agrees to all the conditions from staff. He would like to file this plat and wanted to discuss the tri-city agreement. He stated he wondered why this hasn't proceeded quicker as it was discussed last fall and informally approved.

Bole stated Long Lake may not consider this for a couple more months and Ron Morse has stated Medina should feel comfortable to approve the final plat. Bole stated this works with Long Lake and Medina, but it will need to be discussed further with Orono. He added he doesn't want this to be held up longer if their agreement with those other cities works.

Workman stated the agreement is part of the way it works. He stated he understands Mr. Bole's concern, but this takes a lot of time.

Bole stated he is frustrated and has gotten no response from Medina and he will probably not be granted an extension

Weir asked Workman if he could talk to Mayor of Long Lake. Workman stated yes, however, he didn't think we could do this unless there is a condition to this agreement.

Batty stated he hadn't heard any response from Orono or Long Lake.

Bole asked if the Council would you like to receive a letter from Orono and Long Lake. He added there has been nothing on their agendas for this and he did not want to wait another 2 months.

*Moved by Weir, seconded by Cavanaugh, to allow staff to authorize a resolution subject to the 8 conditions. **Motion passed unanimously.***

### **1. Storm Water Taxing District (Ordinance) Public Hearing**

Adams stated that the hearing should be open and closed, but action on the ordinance would occur at next meeting with final resolutions.

Workman opened the public hearing at 9:22 p.m.

Workman closed the public hearing at 9:23 p.m.

Weir asked how can we get that formalized. Batty stated he can evaluate this in two weeks and see how comfortable the Council is to keep it moving forward by authorizing preparation of the resolutions.

Weir asked if all the junk has been moved away from the farm and asked Dillman if he was satisfied with the flooding problem. Dillman stated the drainage is fine and the rain garden will go in.

**D. Preliminary Plat and Variance, 1475 Willow Drive, Mike Leuer**

Lorsung stated the applicant is looking for the Council to grant a variance, but staff is recommending denial of the variance. Lorsung stated the applicant has provided soil tests, on just shy of 5 acres per lot. She noted the numbers haven't changed that much and staff has verification that the good soils are short on both lots. Lot 1 has 4.38 acres and Lot 2 has 4.26 acres.

Weir stated it is a fine buildable lot, and this is clearly an economic issue. She added the property is more valuable with two lots instead of one, but she cannot find hardship to grant the variance. She added, if the Council does grant the variance, it will set a precedent and if the Council can't find solid hardships, she will vote to deny.

Workman asked Batty if the Council approves this based on hardship, will it set a precedent. Batty stated yes and no. He noted someone may cite it if it is in their interest, but there are almost always differences in situations. However, he added Weir brings up a good point.

Cavanaugh stated the City has an opportunity here, with the south side of Morningside already having a large development come in, if we require the houses be built towards the back of the lot and have some type of easement or stipulation that these lots will not be further subdivided, it will lock in open spaces for future generations along the roadway.

Workman stated, however, the Comprehensive Plan doesn't allow this.

Cavanaugh stated the Metropolitan Council will eventually push higher density within the City.

Workman stated he does not see this as a threat, it is an issue of fairness.

Brinkman asked if it is indeed 87,000 square feet. Lorsung answered in the affirmative.

Brinkman asked in looking at the hardship, was it purchased as a ten-acre lot.

Workman noted the ordinance did not change until 1998 or 1999.

Lorsung stated even if the right-of-way is included, the hardcover cannot be.

Brinkman added there are also septic questions here.

Leuer asked why soils are subtracted for septic, noting the septic system is 4,000 square feet. Leuer added there could be 50 septic systems on a 5-acre lot.

Workman stated the intent was to limit development of these type of parcels citywide. Workman added this is going to a policy decision, not whether we can make it work. He added it would be whether the City should subdivide and change the Comprehensive Plan.

Leuer stated the usage is less than 33 feet. Workman stated he understands that, but the Council has granted these sparingly.

Leuer stated that most times, the lot line is in the road and they have bought and sold a lot of land based on the plat to the road. He added the Council is "splitting hairs".

Workman stated it doesn't meet the letter of the requirement. He added everyone wants to subdivide land, that's how people make a living.

Weir stated that is not the issue here, it is the Comprehensive Plan and Zoning.

Cavanaugh stated he would like to start planning long-term.

Weir stated to do this around a variance is not appropriate. The City will do long-term planning starting next year with the Comprehensive Plan.

Cavanaugh stated he would like to bring this up as a conservation issue as soon as possible.

Lorsung stated the City is working on conservation issues for long-range goals.

*Moved by Weir, seconded by Workman, to authorize staff to prepare a resolution of denial on the variance. **Motion passed 3/1. (Cavanaugh - nay)***

*Moved by Weir, seconded by Workman, to deny the final plat. **Motion passed 3/1. (Cavanaugh- nay)***

Workman asked what is the timeline. Batty stated the resolution will be brought back to the July 5<sup>th</sup> meeting.

Leuer stated he is worried the decision was pushed through too quickly.

Workman stated he should talk to staff and consult with them.

Lorsung stated staff provided the applicant with the report of the previous Planning Commission meeting and there were concerns with approvals in the past.

Workman stated he does not have a problem with this, but when someone else comes in, it needs to be fair and everyone needs to be treated the same. He added, if this is a problem, the City needs to change the way we do it. He stated it's a process we need to go through.

#### **E. Award Contract for Public Improvements – Park Ridge Acres**

*Moved by Weir, seconded by Brinkman, to award the contract to Burschville Construction for Public Improvements at Park Ridge Acres. **Motion passed unanimously.***

## **IX. CITY ADMINISTRATOR REPORT**

### **A. Park Commission – 2005-2010 Capital Improvement Plan**

Adams recommended postponing this discussion to the July 5th meeting in the interest of time.

Weir asked Dillman if the City gazebo is \$4000, and does that relate to the Boy Scouts. Dillman stated it does and the Parks Commission recommended 50% of the cost, so as to qualify this for an Eagle Scout project.

Workman added he would like to table this until Smith returns at the next meeting.

Lorsung stated Katrina Kobes, intern, and she are starting their review of codes and have seen a couple of “red flags” so far.

### **B. Meeting with Senator Norm Coleman’s staff**

Adams and Cavanaugh will meet with staff members of Senator Norm Coleman. He asked if there was a consensus on issues that should be address with them.

Weir stated redistricting is partisan and fixed and she would like discussion on federal redistricting done. She added she is also interested in diversity of communications, and asked about not one conglomerate reporting on all the news. She also added Congress should support MPR.

Cavanaugh stated he would like to discuss stadium issues at the next meeting.

### **C. Corcoran Sanitary Sewer/Water Request**

Adams stated staff and Council representatives met with Corcoran, and decided to propose a Comprehensive Plan amendment to redefine what RCH is and move it back to 2015. Staff would request Council direction to make application for the amendment.

Cavanaugh stated he has a disclosure that his client owns property in Corcoran and he is the realtor for this property.

*Moved Brinkman, seconded by Weir, to move this to the Planning Commission. **Motion passed unanimously.***

### **D. Leawood Farms Road ROW**

Adams stated there was a 50-foot road dedication on the plat from Bradley Farms in the last packet, but clarified the intent was to be 33-feet. He added the County is not comfortable with the 33-feet.

Workman stated the City wanted the 33 feet.

Brinkman stated leave it at 33 feet and don’t take a risk on other 17 feet.

**E. Appointment of Two Community Service Officers**

Belland stated one full-time CSO's had resigned and two part-time people would better serve. The positions were advertised and seven candidates were interviewed. He added the top candidate, David Kliszczy, is currently a reserve officer and the second candidate is John Vinek. He added both have clean backgrounds and he recommended that they both be hired, working up to 24 hours per week for \$12.50 per hour wages.

*Moved by Weir, seconded by Cavanaugh, to hire the two top candidates to serve as part-time community service officers. **Motion passed unanimously.***

**F. Resolution Approving Lot Combination for Dairy Queen**

Adams stated Dairy Queen is objecting to the park dedication fees.

Batty stated the Council could approve this tonight. Batty added Adams stated the restrictive covenant is in place and is recorded against the property, and this is correct.

Batty stated this is viewed as a single parcel that binds the two properties together. When the Council approved their CUP and site plan, there was a condition that DQ must apply for a lot combination within 60 days. He added if they refuse to pay the park dedication fee, the City can consider revocation on their CUP.

Weir stated their letter said they couldn't afford it.

Workman stated we don't want an uncollectible park dedication fee and asked Batty if the City can file a lien on this property. Batty stated the City could set up a payment schedule.

Weir stated she agreed with that.

Adams cautioned that this would set a precedent.

Brinkman asked if they were they aware of the park dedication fee. Adams stated the fees are posted on the website and were discussed previously. Brinkman stated it seemed that the \$11,000 came as a surprise to them. Adams stated the developer may have not calculated the 10%, to understand what the fee would be.

Batty stated they missed the deadline for this lot combination and the Council has been patient. He added they were desperate in November for approval and the City cooperated, but this is grounds for revocation and the Council could hold a hearing to revoke their CUP.

*Moved by Weir, seconded by Cavanaugh, to approve the resolution for lot combination for Dairy Queen. **Motion passed unanimously.***

**VII. MAYOR & CITY COUNCIL REPORTS**

Weir asked about Fortuna Farms stating she is seeing fewer and fewer horses there. She asked staff what is going on there as it seems to be unmowed and uncared for.

Lorsung stated she had an update on the septic tests from City of Independence and now has the report, with the checks information. Weir stated she would like to see the report.

Adams stated staff will keep bringing up this septic issue to the City of Independence and presenting it in the public format also.

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

After discussion, Adams asked staff to remove the Hamel Fire Relief Association bill for \$1,000.

*Moved by Weir, seconded by Cavanaugh, to approve the bills, order check numbers 28035-28098 for \$62,346.05 excluding check #28061 for \$1,000.00, and payroll check numbers 19321-19338 for \$26,019.10. **Motion passed unanimously.***

#### **XII. ADJOURN**

*Moved by Weir, seconded by Cavanaugh, to adjourn the meeting at 10:24 p.m. **Motion passed unanimously.***

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Bruce D. Workman, Mayor

Attest:

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Chad M. Adams, City Administrator-Clerk