

MEDINA CITY COUNCIL MEETING MINUTES OF APRIL 18, 2006

The City Council of Medina, Minnesota met in regular session on April 18, 2006 at 7:01 p.m. in the City Hall Chambers. Mayor Workman presided.

I. ROLL CALL

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

Members absent: None.

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 Allison Burr.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

IV. APPROVAL OF MINUTES

A. Approval of the April 4, 2006 Regular City Council Meeting Minutes

Weir noted on page 10, the second sentence in the last paragraph should read "It helps to address the issue of proportionality in long, narrow lots." Additionally, the final sentence should read "Currently the City is at .095 units per acre, which is just under 1 unit per 10 acres."

Cavanaugh noted the second paragraph, as well as the third from last paragraph, on page 9 should begin "Cavanaugh again stated." He noted on page 10, the fifth paragraph should begin "Cavanaugh stated it appears that." Additionally, the second to last paragraph should read "Cavanaugh stated choosing 250 would not increase density, given the 5 acres of contiguous requirement and the fact that it is a mathematical impossibility."

Cavanaugh noted that on page 11, the fourth paragraph should begin "Cavanaugh again stated." He noted the eighth paragraph on page 12 should begin "Cavanaugh said these property owners may not."

*Moved by Weir, seconded by Smith, to approve the April 4, 2006 Regular City Council meeting minutes as amended. **Motion passed unanimously.***

B. Approval of the April 5, 2006 Board of Appeals and Local Equalization Minutes

*Moved by Cavanaugh, seconded by Weir, to approve the April 5, 2006 Board of Appeals and Local Equalization minutes. **Motion passed unanimously.***

V. CONSENT AGENDA

A. Approval to Liquidate Equipment and Other Property at Open Bid Auction on April 29, 2006

- B. **Accept Quote for Portable Sanitation Units from Biff's Boxes Roll-off Services**
- C. **Approve Change Order No. 2 for Hamel Water Treatment Facility**
- D. **Approve Salary Increase to Police Chief Ed Belland Effective April 1, 2006**

Item A was removed from the Consent Agenda.

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

Belland noted the list of items to be liquidated was put together based on what was taken out of City Hall during the reconstruction phase. After the list was constructed, some additional miscellaneous desk parts were found that will be added as Item 90.

*Moved by Weir, seconded by Cavanaugh, to approve the amended list of equipment and property to be liquidated. **Motion passed unanimously.***

VI. COMMENTS

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

There were none.

B. **Park Commission**

Lorsung stated Adams will attend the Park Commission meeting tomorrow night.

Adams added the agenda will include discussion on a vending machine, the capital improvement plan, community building use policy, and an update on trails being constructed on County Road 19.

C. **Planning Commission**

Lorsung stated Adam's Pest Control will present a preliminary plat, site plan and Conditional Use Permit at the next Planning Commission meeting. The tree preservation ordinance will also be on the agenda.

Weir stated the Planning Commission has members attend Council meetings on a rotating basis. Commissioners would like to help provide an update along with Lorsung at Council meetings.

Smith suggested the same thing be done with the Park Commission.

Workman added it would be nice to have the different Commissioners rotate attending the Council meetings.

VII. OLD BUSINESS

A. **Rural Residential Moratorium**

1. **Ordinance Amending Sections 820.17, 825.07, and 826.25 of the Medina Code of Ordinances**
2. **Resolution Authorizing Publication of Ordinance by Title and Summary**

Lorsung stated there is a memo before the Council that explains staff has met with a number of residents after the hand-delivered letters went out, per the Council's request. One additional property owner met with staff two hours ago. She noted the memorandum outlines that staff reviewed with residents the preliminary plats that were drawn up for review, and staff was unaware of any hardships created by a potential 300-foot lot width requirement.

Lorsung continued that staff looked at soils data on the computer with other residents, and following those meetings, staff was unaware of any hardships being created by the moratorium. She invited Batty to discuss the memo and any additional things in the ordinance.

Batty stated his memo deals exclusively with an item that came up during the Council's discussion of the ordinance at the last meeting. The ordinance has a provision to grandfather in lots that met lot width requirements on March 1, 2006. It falls in the section that grandfathered in lots 10 years ago when the minimum soils were increased from 2 to 5 acres.

Batty continued the question was raised about the treatment of even smaller lots. The memo states there is another section of the ordinance that deals with even smaller lots. There is a third tier that has to be looked at in terms of constitutional issues. If people are denied a variance, then there is another possibility for these people to still develop. He added that fact is probably not obvious in the ordinance.

Batty noted he did add a sentence to the draft of the ordinance currently in front of the Council that is not a substantive change. The addition in section 826.25, subdivision 3, reads "The provisions of this subdivision are in addition to those in section 825.13." He noted section 825.13 is the section that deals with those lots as small as 1 acre.

Cavanaugh thanked staff and residents for going through this process. He stated he understands it has been a difficult situation and there are a lot of feelings on both side of the issue. He noted it appears the 300-foot lot width requirement will probably pass based on what he has heard, and he has one recommendation in case anyone would suffer from the change.

Cavanaugh recommended the Council be able to make an exception to the ordinance and provide flexibility in the event a property owner is unable to obtain the same number of lots he or she would have been able to obtain prior to the ordinance change.

Cavanaugh continued it could present an extreme hardship if somebody had the potential for three lots and now has only the potential for one or two. He noted this is significant because a lot of people have these lots as their retirement.

Weir asked Batty what role an application for a variance would play in this situation. Batty responded this is not a variance situation. This would add a section that would allow discretion to make an allowance. He cautioned it is too broadly worded, and criteria must be established as to when Council would exercise such as option.

Weir asked about approaching the issue by having residents apply for a variance when the lot width is less than 300 feet.

Batty responded if there is no such exception, then the standard variance protocol would apply, which in Medina is a fairly rigorous barrier.

Cavanaugh stated without this exception, when variances are made for one thing or another, a floodgate is opened. His proposal would limit the situations when variances would apply. If his proposal is in writing, then it becomes an option. The make-up of the Council and its feelings may change over time, so it is important to have it in writing. It would help ensure residents do not lose their retirement or half their retirement.

Smith offered a different exception policy. She noted the problem with the City's ordinances regarding setbacks and lot width is they do not allow the flexibility of a conservation design or open space design allowance. Such an exception policy for open space or conservation allows flexibility so a property owner can identify what can be conserved.

Smith provided an example that for one lot, because of the way it is configured, to meet the requirements of the ordinances, a stand of trees may have to be taken down because the house has to be 50 feet from each line. Conservation design allows someone to look at the land and develop lot lines that are more suited to that particular piece of land.

Smith read aloud her proposal and stated the best way to preserve the rural nature is with open space planning that allows some flexibility.

Smith continued she prefers implementing this type of policy now. She noted there is a property on Willow that has a beautiful stand of trees. With this lot width, what might be conserved may not be what the owners want or what the City feels is most beneficial. She stated her exception almost throws out the rules but does not allow the density to increase, but preserves what the owner deems preservable. It gives flexibility to design lot lines.

Smith continued it would be a shame if the City did not try to create an exception policy like this.

Workman noted there have been a lot of requests for variances to the 5 contiguous suitable soils, but the City has not agreed to any of them.

Smith noted there are existing ordinances in other cities, and she took most of the language from the Corcoran open space ordinance. She stated there was a two-year transition period the City allowed when the change from 2 to 5 acres of contiguous soils occurred.

Smith reiterated her proposal would allow some more flexible designs that the City might not otherwise see. She stated the Moratorium Committee did a good job of coming up with different lots designs, like with cul-de-sacs.

Workman agreed Smith's proposal seems like a good idea.

Cavanaugh noted Smith's idea is a good one to incorporate into the Open Space Committee's work. However, his proposal ensures that someone is not severely hurt. He noted his proposal is very specific and states if a resident has exhausted every

possibility and still cannot get the same number of lots as prior to the change, they will be protected.

Workman asked if Cavanaugh's exception would be forever or would sunset.

Smith suggested it should sunset. She asked about a scenario wherein someone has a property and could divide it to meet the 300-foot requirement but did not want to do it that way.

Workman responded that is why it is up to the sole discretion of the Council.

Weir stated she is comfortable with the proposal with a 2-year sunset clause. Workman agreed.

Smith stated she would like to include open space design language. She knows Cavanaugh will lead the Open Space Committee well, but there may be some areas that could be subdivided differently.

Cavanaugh responded there will be very good results from the Open Space Committee.

Workman asked if Smith's suggestion can be incorporated later on if the ordinance is enacted. Batty responded affirmatively.

Cavanaugh noted he can make that a priority for the Open Space Committee.

Brinkman stated Smith's proposal really goes to the priority of preserving the rural character of Medina. He is concerned that 110 feet would be a legal situation. Brinkman added this ordinance was put off for two weeks and another mailing was sent out, and this needs to be completed tonight. He stated he sees some potential problems with the City having to defend against a developer who may want to subdivide.

Cavanaugh stated again his proposal is for the one or two people this ordinance change will specifically affect. He recalled Lorsung has already indicated the ordinance will not affect anyone. He added the exception policy would be up to the Council's sole discretion, but it will also ensure future Councils will not forget what this Council has said.

Brinkman inquired if a resident could be compensated with money.

Workman stated he would rather do the sunset clause and not have it so vague. He also expressed concern about litigation.

Batty cautioned the proposal risks inviting arbitrary and capricious action. He noted it is fine to grant the Council discretion; that is what is done every time a CUP is granted, but the conditions are always listed. He stated the phrase "sole discretion," when it affects anyone adversely, undoes the ordinance by anyone who may be affected by the ordinance.

Batty continued it is a bad idea to adopt the resolution unless criteria are put in regarding when this should be done and when it should not be done. Ordinances are difficult to

write, and there is no time to have staff research and come back again before the moratorium expires.

Weir asked if the vote can be taken and then Batty can shape the language for incorporation in two weeks.

Batty responded it can be done, but it will be an amendment to the ordinance and will have to go through the Planning Commission and therefore will not be done in two weeks.

Weir stated if somebody cannot divide a large lot under 300 feet, it would be grounds to consider a variance. She recalled a gentleman at the previous Council meeting with a 265-foot lot width, noting it would be reasonable to consider a variance in that case.

Smith stated her exception would allow someone to present a case to have a different lot width. They would not get more lots, but they would get the same amount of lots.

Workman stated the exception should include language to the effect of the resident should get the same number of lots as he would prior to the change.

Smith responded that is what the language provides for.

Lorsung asked if the other requirements would be taken away.

Smith responded she would allow flexibility in the other requirements. It could be setbacks or it could be lot widths. In no case could it be more parcels subdivided. She stated after the open space tour, she does not look at a slope the same way, because there are some things that should be preserved.

Smith continued her exception allows flexibility but it does not allow increased density. It allows people to start subdividing the way the land may be naturally subdivided more than by arbitrary lines.

Workman noted the exception does not require that the 300 feet be a hard and fast standard.

Smith responded affirmatively. She stated her exception has criteria and read aloud her exception policy language.

Cavanaugh expressed his agreement with Smith's exception for the Open Space Committee. He stated again, however, that the purpose of his exception is to protect anyone from getting hurt.

Brinkman reiterated Batty's point that it opens the City up for a lawsuit.

Cavanaugh responded he is not saying if it is not 300 feet, then 110 feet is acceptable. He reiterated the decision is up to the sole discretion of the City.

Weir stated in the very few cases where someone is affected, staff would advise the applicant to apply for a variance.

Cavanaugh indicated he can vote for the 300-foot lot width, but only with the understanding that the Council can come back and add something like his exception in.

Brinkman stated a number of constituents have contacted him in support of the 300 feet.

Cavanaugh commented the City is not run by popularity; it is run by being elected and doing what they believe to be right.

Weir stated Batty's input on the addition makes her uncomfortable with Cavanaugh's language.

Cavanaugh again noted he is willing to have Batty refine the language.

Weir suggested a vote be taken and that Batty take a look at it. She added perhaps it should go through the Planning Commission again if necessary. The exception invites complications that would not be good for the City.

Workman asked Councilmembers' thoughts on whether Smith's exception should be adopted.

Weir stated she likes the idea of the exception but needs more time to examine it.

Lorsung suggested modifying the language to read an average of the lot widths being 300 feet.

Workman suggested language that says if this changes someone's situation from the old ordinance, the resident has two years to request a variance, and the City Council may grant a variance at its discretion.

Batty stated what he does not like about the use of the term variance is there exists a defined body of law on variance. It is a term that means something in the statute and in the ordinance. Variances are not meant to be loosely granted. He emphasized variances are a question of hardship, and he does not see a variance as a good safety valve on this.

Batty continued that if there is a group of lots that the City wants to grant additional consideration to, there are two ways to approach it. One approach is what was done in 1997 when the ordinance went from 2 to 5 acres. The provision did not kick in for two years.

Batty stated alternatively, the ordinance could be adopted and staff then could work on some sort of escape language, although not a variance and try to create some criteria. It could then be brought back to the Council to see if that comes close to what the Council wants to accomplish. He inquired if it can be included on the agenda for the May Planning Commission meeting.

Lorsung responded it would have to be in by tomorrow at noon.

Cavanaugh again stated that if some type of stop loss language is put in there, he can vote for the ordinance.

Weir stated she is willing to look at it but cannot commit to it right now. She cannot guarantee she will be in favor of what Batty puts together, though she will give it all due diligence with fairness and reason.

Workman stated he will accept the same rationale.

Workman commented the whole City needs to be looked at to see where this fits and where this does not fit. He does want it to be clear that if there is a resident that comes back in a short period of time and got really hurt because they went from 9 lots to 7, he would want the City to work on it and see what can be done.

Brinkman stated he is trying to safeguard against the development profession to do money for gain and make it look less rural.

Smith stated she would like staff to look at her exception language and hopes staff will support it. It has some criteria that can be used.

Cavanaugh advised staff take time to put something together.

Smith stated this should come back to the Council before being sent to the Planning Commission. Batty responded that is fine; the Council can review it before it goes to the Planning Commission.

*Moved by Smith, seconded by Cavanaugh, to approve Ordinance Amending Sections 820.17, 825.07, and 826.25 of the Medina Code of Ordinances, and to fill in the blank on the ordinance for a 300-foot lot width. **Motion passed unanimously.***

Weir added there is another component to this, which is the two applications presented to the Planning Commission prior to the moratorium.

*Moved by Weir to exempt applications that were before the Planning Commission prior to the moratorium onset, to be exempted from the 300-foot lot width but to comply with the 50-foot all-around setbacks. **Motion failed for lack of a second.***

Batty cautioned that an ordinance was just adopted and it cannot be selectively applied to somebody. He stated language like that would need to be embedded in the ordinance itself.

Smith inquired if she needs to make a motion to have staff consider the open space language.

*Moved by Smith, seconded by Brinkman, to direct staff to consider the open space exemption language. **Motion passed unanimously.***

Adams noted the open space exemption language will be brought back at the May 16th meeting.

*Moved by Cavanaugh, seconded by Smith, to authorize publication of ordinance by title and summary. **Motion passed unanimously.***

B. Discussion of Pool Fence Height and Pool Covers

Lorsung stated the information packet before the Council this evening is to provide more information about new technology on pool covers. It has come to the attention of staff that residents put up a pool fence, which is required, as well as a pool cover because the pool fence is not enough to make them feel safe. Other communities are looking at this same issue

Lorsung noted that some communities do not have any requirements, and staff is not recommending doing that. She stated staff recommends the Council review the information on pool barriers and hold a discussion to allow flexibility about the fence or the pool cover.

Lorsung noted there is a resident in the audience who came to the City with some information about pool covers and would like to present that to the Council regarding pool covers.

Dan Johnson, 2505 Willow Drive, stated he is not in the pool cover business, but there are a number of residents who have explored the safest way to protect family and neighbors from accidental drowning. They did a bunch of research and looked at the existing pool fence ordinance in Medina and statistics on pool safety. He would like to present options that would enhance pool safety in Medina. He stated he is the spokesman for a group of 35 families who would like the City to amend the ordinance allowing pool covers or a pool fence.

Johnson stated research shows pool covers have proven to be much safer than fences. Pool covers have an unblemished record as far as safety. Since the 1960s there are no recorded deaths of someone falling into a pool with an automatic pool cover. About 350 children drown every year and 2,600 are injured by falling into a pool.

Johnson stated the American Public Health Association has discussed the fact that fences have not proven to be safe. In fact, a lot of times fences are left open or the latches are too low and can be opened by children. Also, most ordinances allow houses to be included as part of the fence.

Johnson stated it is safe to say that fences have a pretty bad track record in terms of protecting kids from drowning. The alternative is an automatic pool cover, which is designed to support the weight of adults, kids and animals. It is an impenetrable safety barrier.

Johnson cited the sources he reviewed for this research. Florida, California, and Arizona have adopted an either/or ordinance, where either a fence or a safety cover is required.

Johnson stated he and the residents do not want no requirements like Orono or Corcoran and others. They are asking for an alternative, which is an automatic cover. He noted that Sun Fish Lake and all of Scott County allow an either/or ordinance.

Johnson summarized that pool covers are more easily monitored; they save energy so residents that have a pool have an incentive to close it from an energy perspective. It keeps the pool cleaner as well.

Johnson asked that as the Council considers a change to the fencing ordinance and that it considers an alternative of an automatic safety cover.

Weir stated the installers recommend keeping the pool cover open for two to four hours after the application so the chemicals do not burn the pool cover. Also, an automatic pool cover is only as good as the people are using them.

Johnson stated more and more pool owners are using saline rather than chlorine. A pool cover is only as efficient as its users, just as fences are only as good as those who lock it.

Weir stated dark pool covers absorb heat and transfer it to the water. When a pool is too warm, it grows algae that is difficult to get rid of, and then the temptation would be to open the pool cover.

Johnson stated he does not know a lot about the algae that may grow, but the Department of Energy stated the number 1 thing someone should do is have an automatic pool cover as it prevents thermal loss. Additionally, someone can have a light-colored pool cover if he is worried about the solar temperature. He stated he assumes the industry would lean away from dark-colored pool covers if the algae had become a large problem.

Workman asked about alarms when people enter the pool. Johnson responded he has heard of alarm systems where if someone goes through a door entering the pool area, an alarm can go off in the house. Alternatively, there can be a sonar alarm when someone goes in the water.

Cavanaugh stated there are certain products that automatically cover the pool when there is no activity.

Johnson stated there are all kinds of options. Most are key-operated, meaning it is controlled so a kid cannot mess with it. If a pool is undisturbed for a period of time, the cover can close.

Workman referred this back to staff for more research.

Adams stated there is no more research to be done. It is a policy issue to decide on whether to opt for the either/or approach, and possibly less of a safety issue due to the variety of research provided.

Smith stated a 5-foot fence is ridiculous as it seems a lot of fences are 4 feet.

Lorsung stated staff is open to giving the homeowner flexibility in defining what a barrier is, in which case the fencing issue goes away. In each case, the resident can decide what is best for the safety of the family.

Cavanaugh asked if staff's recommendation would render a fence unnecessary.

Lorsung responded staff is recommending nothing other than some flexibility for the homeowner.

Smith stated a 5-foot fence is not necessary; it should be a 4-foot fence or the cover.

Lorsung stated the pool covers would need to be referenced in the ordinance.

Weir stated she would like to add that if a fence is the chosen way to go and the house is considered one side of the fencing, then a latch should be put at 8 feet on the door, above a child's reach. As Johnson pointed out, 65 percent of the deaths are when a child has egress to the pool. She stated a 4-foot fence is adequate.

Workman stated use of the pool cover should have an auto-closing mechanism.

Lorsung stated the type of pool cover and standard would be written specifically into the ordinance.

Cavanaugh stated if the pool covers are safer, then he likes that better than the fence.

Brinkman asked why it may be preferable to have a 5-foot fence rather than a 4-foot fence.

Lorsung responded staff has no opinion. The only difference between a 4-foot and a 5-foot fence is a 5-foot fence is a custom-built fence.

Workman stated he would like a 4-foot fence either/or a pool cover.

Brinkman concurred with the 4-foot fence either/or the pool cover.

Brinkman asked about the cost of the option of the sensor. Johnson responded he does not know that figure.

Brinkman stated it makes sense to have a sensor in case somebody leaves on vacation. Johnson responded there are timers as well.

*Moved by Smith, seconded by Weir, to direct staff to bring back a proposal regarding pool fences and covers. **Motion passed unanimously.***

VIII. NEW BUSINESS

A. Trunk Highway 55 Corridor – Scope of Services

Adams provided an overview of the purpose of moving forward with a scope of services, as outlined in the Council packet.

Kevin Hoglund, Bonestroo, stated for the past several months he has represented Medina at the TH 55 Corridor Coalition Technical Advisory Committee. The Corridor has received a substantial amount of money from Congress. The Coalition requested projects to be submitted by Cities along the corridor to use this funding. Medina requested three projects: the intersection of TH 55 and CR 116; the intersection of TH 55 and CSAH 19; and a pedestrian bridge over TH 55 at CSAH 101.

Hoglund continued the Coalition has a mission, which is improving the flow of traffic along 55 and improving safety. When the projects were submitted, three were from

Medina, and only four additional projects were submitted. He explained \$7.6 million was requested, \$6 million of that for the Medina projects.

Hoglund explained the projects have not gotten off the ground, but \$5.5 million has been secured to use for right-of-way preservation, studies and safety projects. The Coalition decided to apply \$1.2 million to the County Road 116 intersection. He noted that project became a priority because Mn-DOT is programming \$500,000 to that intersection.

Hoglund indicated that depending on what happens at 116, that project could be quite expensive and involve right-of-way acquisition, access closures, signal crossing on the south side, widening of the road and other elements.

Hoglund explained a scope of services was put together to see these projects move forward. The scope of services includes collecting data, pulling together that information and developing concept drawings, creating plans for what can be done at the intersections, and getting to the point of having the preliminary design complete.

Hoglund stated defining construction limits will define what right-of-ways need to be acquired. He noted federal money can be used for acquisition of property and stated it is important to use that federal money as soon as possible. For Representative Kennedy to obtain additional money for the corridor, the existing money has to be spent. There has to be updates showing the progress on these projects, and if the projects do not move ahead as the Corridor would like, it can be reallocated to something else.

Workman asked what the City is at risk for financially if Medina goes ahead with the plans.

Hoglund responded the scope of services would be paid for by the City. In doing that, the intent is to put together the key pieces to bring more funding this project. In order to program any funding or put forth a commitment, the committee wants a commitment from the City.

Hoglund recalled that in a previous letter to Council, there was a list of funding sources that could potentially be brought to the project. In order for the project to move ahead, there is some initial commitment by the City to answer what the next steps are.

Smith asked if the initial commitment for the City is \$56,000.

Hoglund responded affirmatively. He added that right-of-way acquisition tends to be the hang-up in these types of projects, and that is what the federal funding is for. The City needs to make sure these projects are considered in this environmental assessment, and then the right-of-way needs to be defined. He stated the reason for acquiring the land has to be determined as well as the impact to adjacent properties.

Adams noted the initial \$56,000 would come from the road improvement fund. The long-term concern is if the City has to continue to upfront costs because the City may not see the cash back for a few years.

Hoglund clarified for the federal funding, there is a 20 percent match. In 2009, when construction begins, the Mn-DOT money can be used as the federal match. There might be some issues when acquiring the right-of-way where the City may have to find another

source for that 20 percent match. He stated he wants to create a schedule that will make it feasible for the City to get the funding.

Hoglund stated there are times when a City can get a commitment from Mn-DOT in five years but for a project that needs to be done now. In those cases Mn-DOT offers a debt program where they can front money and it can be paid back over time.

Workman asked if this is considered road improvement or safety, because usually road improvements are assessed back to the people it benefits.

Kellogg responded this would be considered a safety improvement. It is not traditionally City policy to assess safety improvements.

Adams stated there has been discussion about assessing Ryan Companies for their construction. He noted this is also a state-aid highway, so there may be money available there since the City now has a population over 5,000.

Hoglund explained when a City becomes a state-aid City, it receives \$135,000 or \$140,000 the first year. That can be used that for trunk highways, county roads or state-aid streets.

Smith asked if there are obligations with accepting and using that state-aid money.

Workman responded the County receives Medina's money now, so they would get less and the City would get more. Adams added the City would have to build the roads to a standard upon receiving the state-aid money.

Hoglund further explained the City would receive a check at the first of the year and then again after six months.

Workman indicated this is a good idea to go with, but he wants to structure it so as not to not go past the \$56,000 right now. He requested progress reports on an ongoing basis.

Smith noted the environmental assessment is \$4,500 and there is data collection previous to that. She inquired if that means at that point the City will know if the project should be gone forward with.

Hoglund responded data will be looked at and then a clearer picture needs to be put together. The project needs to get to that point before there are any clear answers about the direction to go.

Weir stated this seems like a good direction to go in.

*Moved by Cavanaugh, seconded by Weir, to approve expenditures of up to \$56,000 in relation to road funding for the intersection of TH 55 and CR 116, as requested. **Motion passed unanimously.***

Smith asked why 116 has been chosen as a top priority. Hoglund responded it is because the County and the State are really interested in it.

Smith noted there are also problems with 19. Heglund responded something is being done about 19 this summer. As for the 101 bridge, the regional trail connection and pedestrian use are under consideration for that project.

Weir noted Corcoran is developing on to the north of 116, so traffic will increase in that area.

B. Concept Plan Review for Cavanaugh Property – Signature Homes

Cavanaugh recused himself from the discussion of this topic.

Workman noted he will facilitate the discussion but will not have any comments. Although he does not statutorily have a conflict, he feels it is better to stay out of the discussion.

Lorsung reviewed the concept plan from the Signature Homes, a PUD development located north of 55, east of Arrowhead. The total property is a little over 24 acres. The property is zoned business park and guided for commercial development, and Signature Homes is looking to do multifamily residential project. She noted the density would be 3.81 units per acre.

Lorsung noted the concept review was presented to the Planning Commission and there was lively discussion about it. Staff did an objective review, and staff is saying at this time the City is not encouraging any Comp Plan amendments, which this plan would require.

Lorsung displayed an aerial overview of the plans and noted it is a nice-looking development. The property is guided as commercial, but when looking at the Comp Plan, the City may decide this area around 55 may be more suited for residential.

Lorsung noted the property owner and developer are both in attendance of the Council meeting.

Richard Cavanaugh, owner of the property, stated his family has been part of this property for many years. The people and land here are the reason his family has stayed.

Cavanaugh provided some history of his family on the farm, noting his health is declining and he worries he will be unable to complete his planning of the land. He had hoped it would be developed by now. Nevertheless, he believes Charlie Cudd has put together a great neighborhood elsewhere and will do a good job with this one.

Brinkman stated Charles Cudd has done wonderful work in the past.

Weir stated she walked the land of this site and concluded this is a good development for this portion of land. She outlined a number of attributes, including the fact that it meets the Met Council's requirements for density. The Ryan Development will diversify the City's tax base, relieving the need for commercial within this section." However, she stated the last comprehensive plan amendment caused real pain to some residents. Planning should be done comprehensively, and issuing a Comprehensive Plan amendment is poor timing.

Lorsung noted she believes the amendment for Bridgewater was a mistake and she and staff have consistently taken positions not to grant more Comp Plan amendments. She stated the Council provided similar comments on a concept plan in the MUSA six months ago. That same project would have required a comprehensive plan amendment.

Brinkman stated the plan will be a great piece in time, but he is personally opposed to any Comp Plan changes at this time.

Smith stated this is what she thought the City should have had in this area 10 years ago. The plan fits perhaps the best of anything that has come before the Council, but she stated she is torn. She indicated the City needs to get on with the Comp Plan, but sometimes it is good to accept a really good concept plan when it is before the Council.

Cavanaugh asked if Smith has checked with the people from Foxberry Farms.

Smith stated no, she did not. She received the site plan in her packet and reviewed it this weekend. She is struggling with how to not lose these plans. She is not sure the Council will have the same quality plan that comes forward when the Comp Plan is done.

Smith noted with the Cudd Development in Bridgewater, the City got a lot for amending the Comp Plan, and that helped tipped the scales. A road was paved and the City got a well and an island for a park. She asked if the City would get something like that in this plan.

Cavanaugh responded this could be done at the same time as the Comp Plan.

Smith stated something like this will take a fair amount of time. She inquired if there is a way to have a conditional or preliminary approval.

Lorsung asked if Smith would like to bless the plan now or wait until the Comp Plan is done.

Adams added that is what the City has done with other plans, especially the last one. Staff can take this plan and incorporate this as a showcase of what can be done in the area. This may help speed up the full Comp plan process. Exerting all the energy up front to review Comp Plan amendments requires a lot of staff time, and may slow down the full Comp Plan update. An analysis of the water and sewer systems would have to be looked at, as well as other infrastructure and desired land use around this parcel. He noted there are some outstanding/unfinished issues with the Bridgewater amendment in regard to the completion of public infrastructure that the City has learned from.

Weir stated the City is looking at three years to complete the Comp Plan. Adams responded the City's timeline is actually quicker than that. By next spring a plan could be wrapped up, followed by a six-month notification period to area jurisdictions as required by statute.

Lorsung stated this will be a Comp Plan update and there is a lot more professional staff available to work on it. She stated there is lot of property around this property zoned for commercial use. Only a certain amount of property can be opened up to MUSA in the Comp Plan. All these things need to be looked at comprehensively.

Smith stated nothing west of Bridgewater is suitable for development. Development needs to occur between 101 and Arrowhead. However, she is concerned about having all that land in the area being commercial. She wanted to see more mixed-use, but no one thought people would want to live next to a highway.

Smith continued the last plan the Council turned down was too intense. However, this plan really fits there.

Brinkman stated he agrees with Smith; this could be a perfect fit for what is there. The Council needs to be strong and diligent about its commitment that it could be rezoned residential at any time. He added that the timing is the issue. He suggested there should be retail and a mixed-use portion lead in to the housing portion on the north side.

Brinkman advised it is not wise to do this outside the Comp Plan, although he supports the project in and of itself.

Weir stated it will be 18 months for the Comp Plan at a minimum. She inquired if it is possible for the City to ask Cudd to inventory land for that period.

Charles Cudd responded the only conundrum is the Met Council has until 2010 to request an amendment, no matter how quickly the City goes through the Comp Plan process. Cudd pointed out if someone was here tonight presenting an unbecoming office warehouse project, it would have to be approved if it met the requirements of the subdivision ordinance.

Cudd urged the Council to look at meritorious projects as they are presented as opposed to once the rezoning is done. He stated four years is too far out to inventory land.

Cudd stated if the City looks at project when they come through on their merits, there is more control. Four years from now, there is no way of knowing who will propose what.

Joe Cavanaugh, Sr., stated 10 years ago when there was a Comp Plan change, he was here. At that point there was residential and commercial upfront. He was concerned at that time about changing it to business park. The Mayor at the time gave the impression that it could always be changed back. Now 10 years later, his brother is still waiting.

Brinkman stated if that was what was agreed to, the City should abide by it.

Cavanaugh stated he just wants to go back to what was promised to his brother, and Cudd does terrific work. He believes Cudd wants what is right for the City, but now he is looking at another four years.

Brinkman stated if that was the deal, and John Ferris or Phil Zietlow can reconstruct the deal, it is a black-and-white issue. That would be a strong impetus to stretch into this as much as the City can.

Brinkman stated he has been through all of the Cudd model homes, and they do excellent work and have given a lot back to the City. He stated the Cavanaugh's could be part of the planning process and put together something nice.

Cudd questioned whether a Comp Plan amendment would be required, as the property is within the MUSA. Lorsung responded yes.

Weir inquired if it would reduce staff work because this is within the MUSA line. Adams responded it would help more so because of the recent amendment completed two years ago, but it would still require updating a significant amount of information, as well as the time typically needed simply to review the full application materials. This plan is unique in that it is a stand alone piece, currently without a completed road to it, and staff needs to evaluate the best way to get water/sewer infrastructure to the site.

Workman stated there is a chance the City may have to replace X amount of acres equivalent to the whole project, as the Met Council asked for replacement land initially in the Bridgewater amendment.

Lorsung stated because this is currently business park, the City would not be required to replace the acres. She noted it is not the same as Bridgewater.

Smith noted when the last Comp Plan was completed, the Met Council was concerned about the amount of commercial the City had.

Rick Denman, Charles Cudd Co., stated one thing that came up at the Planning Commission meeting was even if staff and Council are behind the plan 100 percent, it will take a while to go through the process. It could be 2008 before homes are brought through the system. He recalled one question in Bridgewater concerned how many units the City could bring on and handle. He speculated that once the Comp Plan is changed, the floodgates may open of people throwing things through the system.

Denman continued that if the City's current position holds at no changes until the Comp Plan is done, that will push all development off until it happens, at which time a floodgate will open. He clarified this is not a project that will happen this year. The Met Council will have to approve the change from business park to residential even though the MUSA line is available.

Weir inquired if a feeler can be put out to the Met Council. Adams responded he is not sure what the Met Council staff could say, since their Council makes the decisions; it would probably have to be a Comp Plan amendment.

Lorsung indicated if significant acreage is opened up into the MUSA, staff would have to look at creative ways of staging so the City is not bombarded after the Comp Plan is reviewed.

Smith asked if the triple units are priced at \$500,000. Denman responded affirmatively. He also passed out a visual rendering of the project.

Jeff Pederson, 710 Shawnee Woods Road, member of the Planning Commission, stated the Planning Commission thought this was a good proposal. However, the infrastructure provided to the City during the Bridgewater project made it a different situation.

Lorsung stated the City's leverage with the developer is not as great since it is already in a MUSA.

Smith responded the leverage the City still has is the property is not currently zoned residential. However, it makes it easier to accept the hassle if the City receives something in return.

Workman reminded the Councilmembers this stage is concept plan review only.

Jerry Jubert, 2440 St. Albin Street, Roseville, stated he owns the property next to the Cavanaugh property and indicated he is not happy with the zoning now and would be happy with the change. He stated he will likely not be developing before Cudd's project gets going a number of years down the road.

Cudd stated the time to not look at any Comp Plan changes is within the first few years after the Comp Plan is adopted. The current Comp Plan has been in effect for six years, so now is the time to look at reasonable proposals. It would seem as the plans age is when the City should look at reasonable projects. If they have merit, they proceed; if they do not have merit, they will not proceed.

Cudd added there is no market for the current zoning.

Workman recessed the meeting at 9:25 p.m. The meeting reconvened at 9:30 p.m.

C. Request for Proposal – Facility Needs Analysis

Adams stated the Council and staff set a goal during the February 25th work session that it was time to move forward with long-range planning because the city hall renovation is generally complete. He stated this was initially a goal to move forward with a master planning effort in the fall, but staff advised to wait until the city hall was complete.

Adams highlighted the Request for Proposal, which would select a firm to lead the development of a Master Facility Plan for public facilities, including the Police Department, Public Works shop, and City Hall. Adams noted there are adequate funds to move forward with the planning, which would come out of the Revolving Fund.

Workman stated he would prefer not to put a dollar figure on it at this point.

Smith inquired how staff can have time to move ahead with this if staff does not have time to do other things because of all that is involved with the Comp Plan. She also asked how long it really is before there is an opportunity for change because the Comp Plan review will take at least 18 months.

Smith suggested there be an RFP for a survey of the residents for the Comp. Plan. She added she does not like turning away good proposals like the Cudd proposal, which was necessary because of the time element, and she questioned whether this is the right time to do this.

Workman reminded the Council this idea came out of the Joint Planning session. Adams added this topic has been on the calendar as a goal, in addition to the survey and comprehensive plan process which the staff and Council set as goals for 2006.

Smith stated she understands that. However, the City just came out of a six-month moratorium. The City knows it has mistakes in some of its zoning and she would like to expedite that process. She stated she believes proceeding with this may slow it down.

Workman stated outside consultants will be used. He added this may not need to be done immediately, but it does have to be done at some point.

Adams reiterated the Council recommended initiating this process about nine months ago, as well less than two months ago. This is why staff prepared the RFP for tonight's meeting.

Brinkman stated the City did come through the moratorium. He stated it might not be too bad to put out an RFP and at some point be ready to move on it. He also suggested the Council perhaps be willing to reconsider the goals set at the work session.

Lorsung suggested the Council walk around the City Hall building and look at the remodeling. She stated staff in the east wing is extremely crowded. There is not room for even one additional employee.

Cavanaugh suggested perhaps the City look at a medium- or short-term solution like off-site work space.

Workman suggested moving the Council Chambers to the Community Building for a period of time.

Brinkman stated there is a new Public Works Superintendent who may be able to construct a new office in the Public Works facility.

Moved by Weir, seconded by Workman, to approve the RFP for a facilities master plan, as requested.

Brinkman inquired if the motion is spending any money. Workman responded there are minimal costs to obtain bids.

Cavanaugh indicated he would like to think about this.

Workman stated again that the Council has been one of the major drivers of this idea.

Smith suggested tabling the issue. She does not think \$50,000 or \$60,000 should be spent on something like this at this moment.

Weir stated she would be happy to table it for a date certain next meeting.

Motion withdrawn by Weir, the second withdrawn by Workman, to approve the RFP for a facilities master plan.

Moved by Weir, seconded by Workman, to table the RFP until the next Council meeting.

Cavanaugh stated he believes the \$50,000 would be better spent putting it in a fund and picking out a piece of land.

Workman added government is not private business. All options have to be evaluated, and even though on occasion something can be obvious, due process still has to be followed.

Smith asked why the proposal does not include public participation regarding what the City needs in the future. Adams responded public participation is included under Analysis and Strategy.

Cavanaugh stated again \$50,000 to \$60,000 is a lot of money. He is committed to doing facilities planning, but he believes Council needs time to think about it.

Motion passed unanimously.

IX. CITY ADMINISTRATOR REPORT

A. Appointment of Office Assistant

Adams stated the recommended appointment for the Office Assistant is the current intern, Dusty Finke. He stated Finke is already doing a lot of work in this area, and this position would be an extension of his current duties.

Adams recommended increasing Finke's wage to \$16 an hour beginning tomorrow, and his wage will stay the same on May 1st when his full-time position begins. He noted he accepted and reviewed one other application for the position.

Moved by Smith, seconded by Brinkman, to approve Dusty Finke as the Office Assistant.
Motion passed unanimously.

B. Parks, Open Spaces and Trails – Future Funding

Adams stated more analysis has been done regarding a referendum for parks and open spaces. A 53-day notice prior to the November election is required, which is sometime in August, after a resolution is passed by the Council.

Adams discussed the fact that there are city fund balances that could be transferred for this purpose, and the State Auditor has always recommended paring down the balances. Adams outlined a number of the funding issues associated with parks and open spaces, including re-designating park dedication fees, setting aside funding each year from the general budget or tax levy. He also stated there may be some unexpected surplus revenue from 2005 city investments, and there are a number of things those funds can be allocated towards.

Adams noted that rather than potentially going through a levy in November, the City may be behind in timing to properly promote the referendum. With the open space planning, it also raises the question of the timing, since that process is just starting.

Workman stated he believes the timing is too short, and the City needs to identify all of its capital assets before the City starts talking about levying. He stated his opposition to this referendum.

Cavanaugh stated he is in favor of pursuing a referendum, and this is the time to act. He indicated the fairest way to do that is throw it out to the voters.

Smith suggested the City has a better chance of getting the voters to vote yes if there is a specific proposal in front of them. She stated she is hoping there will be an RFP for a survey for what the residents want, and maybe that will give the Council an indication.

Smith added if this referendum is not properly marketed, it could fail and would therefore be difficult to pass again next time. She suggested there needs to be something specific marketed.

Workman agreed there would need to be a specific proposal.

Smith asked if there can be a report on the budget surpluses referenced by Adams.

Adams stated the fund balances can be viewed at the next Council meeting.

Cavanaugh stated if the Council waits six years to pursue this type of planning, land will be even more expensive.

Workman responded he does not accept that argument. Using that argument, one could ask why the City did not purchase land 10 years ago. He stated that is simply the way the time value of money works.

Brinkman asked how much is in the fund right now. Adams responded he cannot give firm numbers. The park dedication fund itself is about \$1 million.

Workman stated the cash flow looking ahead for this City is very bright.

Cavanaugh stated specific plans could easily be come up with by August.

Brinkman suggested looking at a plan in the next week and spending what the City currently has. He noted the open spaces are in the planning stages.

Workman stated the Council does not have to go to the voters for this money; the City can bond for this.

Smith stated the issue of the referendum has not gone to the Park Commission yet, and it needs to be discussed there. There is time to look at this, and by then the Open Space Committee will have begun.

Cavanaugh clarified he has never indicated he has the answer of what to do with the funds right away; he just wants to get the process going.

Batty stated the referendum question is whether to sell a bond. The general rule is that the City cannot sell a bond without an election. There are exceptions, and the City usually uses an exception. Special assessments and tax increment are exceptions. This, however, does not fall into an exception. Unless the City uses the money already in one of the funds or an increase in taxes, this will be selling a bond for X number of dollars for Y purpose. That becomes the pot of money to use to acquire property or whatever the Council decides.

Batty stated the ballot question has to be put together and bond counsel will have to do that, and the fiscal agent will get involved to do some tax preparation numbers. There is some legal and staff work to be done so the resolution can be adopted in August. That way the City can meet in September prior to the 53-day deadline of getting it to the County Auditor.

Batty stated all of this work is doable. However, his concern is whether the Council has a plan together to sell to the public. Bond referenda are difficult things to pass. He stated Cities have to be well prepared to make the case for the public. He stated it would be risky to do all of this work and hope it all goes through.

Workman stated the Council is trying to rush something because an election is coming up. What needs to be done is an analysis of the needs and the current funds and a decision about whether there is a need for a referendum.

Weir stated the question should be asked of the residents on the survey.

Cavanaugh suggested this does not have to be a bond; it can be a levy.

Smith stated she may be campaigning this fall, and she wants to answer the questions about a possible tax referendum. She wants to have a good answer. She indicated she is not afraid to ask for more money, but she needs to be able to document the reasons why it is a good idea.

Cavanaugh suggested proceeding on course and seeing what happens.

Adams stated this will be brought up to the Park Commission tomorrow evening.

Workman added the Council needs an analysis of the fund balances and a cash-flow analysis to find out if there is a surplus that can be used.

C. Engineering Update

Kellogg reviewed the upcoming projects, including the Uptown Hamel project. He stated staff is still awaiting contracts to be returned from Ryan Companies. He reported he is working with Adams and Dillman to get new superintendent Joe Paumen acclimated to the new position.

Weir asked for the cause of the water from the Argent Parc building, and running overland to neighboring properties. She stated there has been water running overland to neighboring properties.

Kellogg stated the provision the City has made is a pipe connected to the building. However, he indicated he will check it out.

Workman inquired if Ryan is meeting their deadlines. Kellogg responded the dirt piles are part and parcel of the public improvement project. Some of the dirt will remain there until June because it is helping compact other dirt.

D. Schedule Work Session for May 2, 2006 at 6 p.m. – Discussion of Cooperative Projects with Hennepin County

Adams asked if the Council is open to this idea of discussing cooperative projects with Hennepin County. He noted there will be discussion of a sewer extension to the Hennepin County public works facility, location of a Medina civil defense siren on their public works facility site, location of a wind turbine, location of a new Hennepin County building to accommodate a back-up computer site, and discussion of a Medina public works at their site, which will ultimately be a part of the City Facilities Master Plan.

*Moved by Smith, seconded by Cavanaugh, to hold a special meeting May 2, 2006, at 6:00 p.m. to discuss cooperative projects with Hennepin County. **Motion passed unanimously.***

E. Medina Internship Program

Adams stated the intern, Dusty Finke, has been appointed to the Office Assistant position, so the intern position is open again. He reported department heads are excited about this program and have found it to be a very effective tool. He asked for direction from the Council about whether to appoint another intern.

*Moved by Weir, seconded by Smith, to give Adams discretion to appoint an office intern. **Motion passed unanimously.***

F. Summer Office Hours

Adams reported other Cities have summer office hours that typically provide additional scheduling flexibility for employees. He stated he wants employees to have some input, and he is seeking Council approval tonight to pursue that input.

Workman stated he supports flexibility and suggested Adams work something out.

Smith indicated she does not like the idea of closing City Hall on Friday.

Workman responded not everyone has to be there Friday; flexibility should be allowed.

Brinkman added he knows a lot of people do City business late Friday.

Adams mentioned there is a meeting on Thursday for the Lake Independence TMDL. The Mayor is the appointed representative for that, and he asked if anyone else is interested in going in lieu of the Mayor. Weir volunteered to go Thursday.

Workman indicated he can go to the subsequent meetings.

X. MAYOR & CITY COUNCIL REPORTS

Workman reported the State of the City breakfast went well this morning. It was a more active conversation than he has seen during the last couple he has attended. It looks like all surrounding communities are actively growing and they like it. It seemed most of the Cities around Medina are proactively developing.

Workman stated the City is not in hurry and would like to stay on the same pace it has been.

Smith noted Lorsung's memo indicated there will be a section on the website for the Uptown Hamel area. She inquired whether a sign should be put up indicating redevelopment is going on.

Lorsung stated she hopes the website will be constructed in the next week. She noted all the efforts done so far in Uptown Hamel will be highlighted.

Smith stated she has heard about the construction of the service road and the sign.

Lorsung responded the approved sign is a stretching monument sign. The way the land is configured along the right of way, it slopes towards the creek. There is really not a good place without a major land alteration. A month ago, staff spoke to a number of developers and everyone was in agreement about the sign at the southwest corner of Sioux and 55.

Lorsung stated it will be about 75 feet south of the original location, and that is only due to the topography.

Brinkman asked what the sign guy said about the situation.

Lorsung responded he did not have much to do with the location, but she can contact him and do a site analysis. Thinking ahead to the pedestrian bridge, the east side of that would be a perfect spot for a Welcome to Medina sign.

Further discussion was held about the sign.

Weir stated the Uptown Hamel Business Association meeting was held and there was discussion that two units, possibly three, have been sold so far in Argent Parc. There will be an open house in April/May. She noted six were signed up but they did not close. The building inspection was not completed until about 10 days ago.

Workman stated he heard the policy was changed from the 55+ restriction to anyone being allowed, and that has driven the initial people away.

Cavanaugh asked what the long-term implications are. He stated the City needs to be aware of this because there are two projects the City is counting on.

Weir stated the rumor is the Provenance gallery that has closed may become a coffee shop.

Adams stated he and Lorsung met with the *South Crow River News*, and there will be a story about the investments the City has made in the Uptown Hamel area.

XI. APPROVAL TO PAY THE BILLS

Adams stated there is one addition to the list of bills. The City will pay Mn-DOT \$23,000 for a traffic light on TH55, for which the City will be reimbursed by Ryan Companies.

Moved by Weir, seconded by Smith, to approve the bills, order check numbers 029252-029329 for \$592,314.32, and payroll check numbers 019849-019869 for \$29,723.23.

Motion passed unanimously.

XII. ADJOURN

Moved by Smith, seconded by Cavanaugh, to adjourn the meeting at 10:31 p.m. **Motion passed unanimously.**

Bruce D. Workman, Mayor

Attest:

Chad M. Adams, City Administrator-Clerk