

MEDINA CITY COUNCIL MEETING MINUTES OF OCTOBER 2, 2007

The City Council of Medina, Minnesota met in regular session on October 2, 2007 at 7:07 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Cavanaugh, Smith, Weir, and Johnson.

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Police Chief Ed Belland, Planning Director Tim Benetti, Assistant to Planning Dustin Finke, City Administrator Chad Adams and Recording Secretary Kimberly Stoll.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

The agenda was accepted as presented.

IV. APPROVAL OF MINUTES

A. Approval of the September 18, 2007 Regular City Council Meeting Minutes

It was noted on page 5, the seventh paragraph, it should state: "Weir...She stated that in the ordinance the Council tried to limit it as much as possible..."

It was noted on page 12, the tenth paragraph, it should state: "Galen Bruer...He stated that the residents want to preserve..."

*Moved by Weir, seconded by Johnson, to approve the September 18, 2007 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

~~A. Accept Donations to Medina Celebration Day~~

B. Resolution Recognizing Volunteers and Contributors to Medina Celebration Day

C. Accept \$1,000 Donation from Gerald and Rose Dykhoff for Bench at Hamel Legion park

D. Accept \$1,000 Donation from Steven and Cindy Schmidt for Bench at Hamel Legion Park

E. Release Letter of Credit from Thomas T. Morrison

F. Resolution Granting Extension of Time to File Final Plat for Parkview Knoll Amending Resolution 2007-33

G. Resolution Granting Preliminary Plat Approval for Moen/Leuer Subdivision

H. Authorize Sale of Police Squad

Smith asked to remove item A from the consent agenda.

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

A. Accept Donations to Medina Celebration Day

Smith stated that she would like to publicly recognize the businesses that made donations for the Medina Celebration Day.

The Council reached consensus to accept the donations for Medina Celebration Day.

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

Ashley Farr, representative for Farr Development and Argent Parc, 3709 Lilac Drive, stated the property behind Argent Parc is in disrepair. She stated there are consistently abandoned vehicles, weeds, and a building that is in despair. She stated she is concerned about the safety of the park. She stated she spoke with the property owner who stated that she will work to clean up the property.

Chad Hanson, Edina Realty Realtor, stated he sells realty in the area and the residents who live in that area are concerned about the effect on the property values. He stated that there have been people who have not purchased property in the area due to the property.

Janelle Hanson, 185 Hamel Road, stated she has lived at Argent Parc for about 1 ½ years and the property hasn't improved. She expressed concern about injuries and the risks with the property being in the state it is in. She provided the Council with a petition in support of the cleaning up the property.

Crosby inquired about the ability to deal with public nuisances. Adams stated that there is a process for addressing public nuisances. He stated that the building was reviewed about 4 months ago and it was determined that it wasn't in a state of being structurally deficient. He stated that it could be reviewed again along with the site nuisance.

Cavanaugh suggested that there may be avenues that the City could pursue to assist in demolishing the building if it is not being used.

Adams stated that at one point there was a possibility of developing the land under a purchase agreement, but it is his understanding the purchase agreement has been withdrawn.

Smith inquired if it was an area that would be in the TIF District. Adams stated that it is in the area, but there is a difference between TIF standards needing qualifications as substandard versus code definition of nuisance or structurally deficient.

Adams stated staff will follow-up with the property owner and may need to send written notices for code compliance as needed.

B. Park Commission

Bob Pastor, Park Commissioner, stated at the last meeting they discussed the CR 19 trail from Baker Park to Independence Beach with a consensus to request a variance from MnDOT.

C. Planning Commission

Robin Reid, Planning Commissioner, stated the Comprehensive Plan Advisory Panel and Commission met to discuss the draft plan of the comprehensive plan.

VII. OLD BUSINESS

A. Turnquist/MnLINC Conditional Use Permit for an Animal-Assisted Therapy Facility- 2000 Chestnut Road

Crosby stated the Council received a memorandum from Adams and Batty. He stated that the City has received public input from various sources and noted that this meeting is not a public hearing.

Batty stated the memorandum he prepared addresses the communications the Council has received regarding the private road agreement. He demonstrated the location of the properties in the area. He stated the western portion of Chestnut Road is not subject to the private road agreement and it is a public road and demonstrated the portion of the road.

Johnson inquired if that is consistent with the legal written description. Batty stated that the legal description identifies the properties in the metes and bounds of the private road agreement. Batty stated that while the private road has an agreement he thinks that it has become a public road by virtue of a pattern of the City maintaining the road. He stated that it wasn't intended to be a city road, but the City has been maintaining it for a number of years and hasn't made an attempt to collect assessments for it. He stated that he doesn't think that the private road agreement should have an impact on the City's decisions on land use agreements. He stated there are other provisions in the private road agreement that he doesn't think the City is in a position to enforce.

Johnson inquired about public access for the road. Batty stated the code doesn't specifically state public access is required. He stated that he believes the other provisions are being met. He stated the Council needs to determine if the standards are met.

Johnson inquired if the City is taking away any rights of the signators of the private road agreement by granting a CUP for a property that has questionable public use. Batty stated that if the City takes the position that the properties on private roads don't have the same rights as other properties, then the City is creating two classes of RR properties. Batty stated the City allows a number of uses in the residential district and some of the uses are restricted to arterial roads. He stated the Council chose not to restrict access in this situation.

Crosby stated the City doesn't get involved in the private road agreement. Batty stated that the City doesn't when it comes to the restrictions that might apply. He stated that in the case of subdivisions, the City wouldn't permit private land use agreement superior to the City's subdivision regulations.

Smith inquired about the reason the City allows people to build where the City has no control over the road. Batty stated the Council has allowed private road agreements and requires the property owners to agree to build and repair the roads; the City has an easement over the property; and stands ready to repair a private road if there is a health

or safety concern. He stated the roads need to be built to City standards. He stated that people have the right to bar people from the use of the private road if they choose to do so.

Adams stated the options for the Council's actions and additional conditions that could be considered to be added to the CUP. He stated Council action could include modifying the CUP or direct Planning Commission to amend or rescind the ordinance. Adams explained CUP conditions for discussion could include the age restriction and adding both parcels to the CUP, not just the south parcel.

Smith stated that the proposed use would be on both parcels of the property.

Johnson stated the use of both of the parcels would allow it to comply with the setback requirements, addresses the traffic concerns and potential future uses.

Crosby provided information about the history of the process for the CUP for an animal-assisted therapy facility. He stated the concerns that were raised by the public include the potential of expansion and working with groups of people. He stated in his opinion limiting it to therapeutic services would lead it to be a community service. He stated he would like it to be limited primarily to youth under the age of 21 and students that have emotional, behavioral, or disability symptoms.

Smith stated the City followed the legal process for notifying the residents, but it wasn't sufficient notice. She stated that she requested that notices be sent to all the residents and in the future notify all of the people who would be potentially affected.

Finke stated there were five conditions for the CUP that were discussed including: reducing the hours of operation to 9 a.m. to 8 p.m., five days per week; limiting the program participant trips to 10 round-trips per day; removing the possibility of larger events; requiring a 1:2 staff to program participant ratio; and strengthening the language that allows the City to revoke the AAT use after 30 days of inactivity.

Weir stated that she would like the hours of operation to exclude Sundays from potential operating days.

The Council agreed that MnLINC wouldn't be open on Sundays.

Smith stated that the round-trips need to include staff. Cavanaugh concurred.

Smith recommended a total of 15 round-trips per day including staff.

Weir stated that parking for 10 vehicles shall be provided with parking allowed on the grass. Finke stated that the property owners have adequate parking.

Smith suggested using consistent language in the staff report and the CUP regarding the terms referring to staff and the people responsible for supervision.

Weir inquired if it is legal to incorporate the letter written by the Turnquists stating the use will be terminated on October 1, 2009 with the CUP.

Batty stated that he doesn't think the City could impose a time limitation on a CUP. He stated he spoke with the attorney for the Turnquists who stated that the CUP is valid as long as the terms and conditions are met. He stated that having the Turnquists sign an agreement in public goes toward meeting the time limit requirement.

Johnson suggested that one of the conditions be an irrevocable letter on file.

Crosby stated that the Turnquists and the neighbors would be able to have an agreement for the two years.

Johnson stated that the Council has been told that the two year limitation is not possible. He stated the neighbors have moved towards acceptance based on an iron-clad two year agreement. He stated that if he were a neighbor and gave his support, he would like the Council to ensure that the two year agreement is valid and enforceable.

Cavanaugh inquired if there was a possibility for a private agreement between the Turnquists and the neighbors. Batty stated that it would be questionable about who would enforce the agreement. He stated the City has a limited interest in the private road agreement. He stated that early on they were discussing imposing a two year agreement. He noted that there has been varying length of terms discussed. He stated that if the property owners offer a length of time, then it becomes part of the CUP.

Crosby stated that he understood there couldn't be a time limit because of a municipal law.

Batty stated that the CUP runs with the land.

Johnson inquired if it is possible to have the CUP be non-transferable. Batty stated that by law it runs with the land.

Smith inquired about interim use permits. Batty stated that interim use permits are meant for properties when the use of the land will be changing.

Johnson stated his understanding is that it is an interim use while the Turnquists are away and to assist MnLINC in getting established. Batty stated that the Turnquists use is transitional, but the use of the land isn't transitional.

Crosby stated that if the City would be able to enter a two year agreement, he would be in favor of it.

Johnson inquired about the letter from the Turnquists that states the use would convert back to the old CUP after two years. Crosby stated the old CUP allows the horse operation and the old CUP provisions are in the new CUP.

The Council agreed that the conclusion is that City would accept the two year limit, but there is no guarantee that the use would cease after two years.

Weir stated she didn't understand the purpose of including both parcels.

Cavanaugh stated the purpose is to make it more difficult for this type of use in the City.

Johnson stated unifying the CUP would allow for some control of the use for both parcels.

Batty stated the reason they decided to have it apply to the south 40 acre parcel is because the old CUP was for the south 40 acre parcel.

Finke stated that it was cleaner to have the CUP apply to the south 40, but both parcels could be included.

Johnson stated that philosophically he feels that they would be doing a better job if it applied to both parcels.

Weir clarified that both parcels would be included in the CUP.

Johnson stated that there isn't anything to prevent a portion of the land from being divided to continue this use.

Smith stated she would like a maximum number of dogs allowed on the property at one time.

Weir stated that she would like Staff to work with the applicant to suggest an appropriate limit for the animals.

Smith stated she thinks the private road needs to be paved up to the Turnquist's driveway.

Cavanaugh stated that he would like to determine if this is going to be a use before imposing additional financial burdens. He stated he would like the age limit to be exclusively for children under the age of 18.

Weir stated that students would turn 18 during the school year. Cavanaugh stated it could be 18 and under.

Paul Zisla, lawyer representing the Bhavsar family, stated the Council can make a determination that there isn't adequate access to the property. He stated that they haven't discussed not granting a CUP where there is a private road based on a particular agreement. He stated they are asking the City to respect the agreement and not to enforce the agreement. He stated that he thinks it would need to be analyzed if it were an institutional use. He stated the City is in a position to speak to the terms and conditions of the road and adequate access.

Dale Considine, 2265 Chestnut Road, stated she has participated in a MnLINC workshop and the services provided for Medina would be beneficial. She stated it would allow MnLINC to not pay rent for two years and increase their infrastructure. She stated the idea that this is temporary is a sign of commitment to the work.

Abdhis Bhavsar, 2105 Chestnut Road, stated he is not opposed to the Turnquists or MnLINC. He stated he spoke to Wendy from MnLINC about fundraising and is looking at ways to advise them in finding a permanent home and funds for a permanent location. He stated he is opposed to the location because of the safety of the roads. He stated CUPs are there for a legal reason. He requested revocation of ordinance 428.

Kay Dobbs, 1772 Morgan Road, stated she thought she chose to vote for representatives who were in support of rural residential areas. She stated previous minutes indicate concern and doubt about the ordinance. She stated that Crosby previously stated that this type of use is similar to churches and schools. She stated these are all located on county roads or arterial roads. She stated the Turnquist property isn't an appropriate location. She stated supporting MnLINC is a noble request. She requested denial of the CUP and revocation of ordinance 428.

Tammera Diehm, attorney for Jeff and Kay Dobbs, requested the possibility of a time limit be imposed by an agreement with the property owners and enforced by the property owners be carefully considered. She stated the Council enacts ordinances and it is their obligation to consider if the CUP meets the requirements of the code. She stated the code requires that a lot or parcel may not contain more than one principal use and the code outlines various uses for properties in the rural residential areas. She stated that a residential use is not permitted for an accessory use in a rural residential district. She stated that by allowing someone to live on the property and AAT to use the property the City would be violating its own code. She encouraged the Council to consider the feedback received from the neighbors and people in the community. She requested the Council repeal the ordinance and deny the CUP.

Crosby stated that Denise Crawford, Eden Prairie, submitted a comment card that stated as a mental health therapist she has referred several people to MnLINC and has found staff to operate in the utmost integrity and perform their work with high ethical standards.

Greg Lemond, 3000 Willow Drive, stated he has known the Turnquists for a period of time and the work they are doing is very important. He stated that everyone has concerns about the length of time. He stated other roads have more traffic than the traffic that would be generated because of MnLINC. He stated if it has a two year limit, he is in favor if it.

Johnson inquired about Lemond's statement about a two year limit. Lemond stated that he wouldn't be opposed to it going beyond two years if it has a low impact and he knew the scope and limits of it. He stated the work done by MnLINC can be a great asset to the community.

Crosby stated the following non-residents submitted comment cards: Dr. Charlene Myklebust, St. Louis Park, stated she wished to speak about the students' profiles; Elizabeth Freeberg, Circle Pines, stated she would like to speak about the importance of the program from parent's perspective; Maureene MacNamara, Minneapolis, stated she would like to speak in support of the mental health program; and Kay Neznik, Watertown, stated she would like speak to the need for MnLINC.

Jim Simons, 1862 Morgan Road, stated he and his wife remain in opposition of the ordinance and the Turnquist application. He stated the ordinance was created specifically for the applicant. He stated that it isn't about MnLINC, but it is about a permanent change to the code. He stated that he is thinking the Council is setting precedence. He stated the modifications to the CUP are still concerning. He stated the Council appears to be pushing the enforcement on the neighbors.

Vern Spangrud, 2235 Chestnut Road, stated he thinks the Turnquists are trying to help children who have a tough time. He stated that in two years the Turnquists will be spending more time in Minnesota. He stated that the people who are speaking against the CUP because of the traffic don't live on Chestnut Road. He stated that the good that can be done will outweigh the traffic.

Jim Lane, lawyer for Rolf and Liz Turnquist, stated the potential changes in the conditions on the CUP. He stated the Turnquists filed a request with the City Attorney and the Mayor proposing an additional condition of a two year cap. He read the letter from the Turnquists with a request to terminate the CUP for the AAT facility no later than October 1, 2009 and failure to do so would result in a revocation of the CUP by the City.

Crosby inquired about the ages for the clients. Lane stated that an arbitrary age cap would inhibit some of the children in the program. He stated the term youth and young adults would be appropriate. He stated an age cap would deny the involvement of parents and guardians.

Randy LeNeave, 1682 Medina Road, expressed concern for the safety of his children and stated he moved to the area for the rural character. He stated he is not opposed to MnLINC, but the program doesn't fit the rural residential character of the community. He requested the Council deny the CUP.

Crosby stated there are several individuals who would like to speak from outside of the City on behalf of MnLINC.

Weir stated that they have allowed lawyers from outside the City to speak so they should allow others.

Smith stated that it isn't an issue of MnLINC, but it is an issue of land use.

Elizabeth Freeberg stated MnLINC has been in a rural community on a dirt road. She stated her daughter has used MnLINC and it has been beneficial for her to become more confident, comfortable, relaxed and trusting. She stated some community members don't want this in the community and used her daughter as an example of how children can excel. She stated that none of the children have run away or committed crimes and it helps the children cope with society.

Maureen MacNamara, doctoral student at the University of Washington and fellow of the Human Animal Connection Institute in Denver, stated undeveloped land is becoming more inaccessible to children. She stated that allowing the program to continue in a non-traditional area provides MnLINC the opportunity to apply for funding from the Forest Department and the Federal Land Use Organization.

Kay Neznik, District 287 social worker and therapist for MnLINC, stated that there have not been incidents of violence or problem behaviors. She stated the children are screened before becoming a part of MnLINC and are supervised at all times. She stated many of the students are inquiring about when they can go to the farm to visit the animals. She stated the students have learned to carry the calm behaviors over to school situations. She stated that she has had a judge mandate that social services pay for the program.

Dr. Charlene Myklebust, director of Intermediate District 287, stated that the age range through age 21 is because of the Individuals with Education Disabilities Act and the Individuals with Disabilities Reauthorization allows children the right to have a public education through the age of 21. She stated that there are also gifted and talented children who have a mental health diagnosis and many of the children are victims, not perpetrators.

Rolf Turnquist, 2000 Chestnut Road, stated at the last Council meeting he heard that they didn't communicate well. He stated he recently invited the neighbors to their house for an informational meeting. He stated after hearing the concerns about the conditions in the CUP it was changed dramatically. He stated the difficulty is the two year time requirement. He stated they are requesting the CUP be revoked if MnLINC isn't out by October 1, 2009. He stated they would do the enforcement because it is their commitment to the neighbors. He demonstrated the location of the residents who signed the petition in support, are in opposition, or are neutral. He demonstrated the location of the house and barn on their property and stated there is over a quarter mile to the adjoining properties on the south and noted the fences and tree lines in between the properties. He stated they are willing to have the two parcels adjoined and bring the road up to scale annually. He stated paving the road is costly and they ride horses on it. He stated the risk is low and the reward outweighs it. He stated they need to think with their hearts as well as their heads. He stated that there is one person on the road in opposition and the majority are in support. He stated that he and his wife are putting the commitment in writing.

Jeff Dobbs, 1772 Morgan Road, stated that it is a land use issue and he doesn't think the location is appropriate and is in opposition to the City's zoning code. He stated the comprehensive plan will be in place next year and it seems that the ordinance is to serve one residence. He stated that there were supporters who were in support for two years. He stated that Jim Simons' home may be closer to the Turnquist's than their home. He stated they support many non-profits and therapeutic riding. He requested denial of the permit and to start over on the permit and the ordinance.

Weir inquired if the discussion could be tabled until after the suggested changes in the CUP. Crosby stated if it was tabled, it should be with more specifics on the two year time limit and the age limitation.

Johnson inquired about the issue of one principal use on a parcel. Batty stated that implicit in the adoption of the ordinance is that the animal-assisted therapy will be an accessory use.

Batty stated the options include adopting a resolution approving the conditional use permit and direction given to Staff to amend the resolution. He stated there may be some things that require a modification to the ordinance, which would require Staff to be directed to the changes. He stated the Council can direct Staff to prepare a delete all amendment. He stated that he would not suggest the Council to deny the CUP at this meeting. He stated that the ordinance was adopted specifically for this use and because of that, denial of the CUP wouldn't be appropriate.

Smith stated she has a profit/loss statement from MnLINC and inquired about the cost of rent per month. Tanya Welsh stated that it is \$1,700 per month.

Smith inquired if there would be a tax write-off for the Turnquists. Rolf Turnquist stated that there is no tax write-off.

Smith stated the ordinance was done without some thorough thinking. She stated the road and the access is not safe. She stated she doesn't think it is the best location.

Cavanaugh stated it is a difficult decision and for him to support it, he would need to see some agreement among the neighbors. He stated that more time to decide would be useful in making a decision.

Crosby stated that it appears that the neighbors have reached decisions and there may not be room for compromise. He stated that a two year limitation and the other conditions discussed would lead him to grant a two year limited use.

Weir stated she spoke to the police in Minnetrista and there haven't been any concerns or problems in the three years that MnLINC has been there. She stated that churches provide therapeutic services that occur in the rural residential area. She stated the two years is reasonable. She stated she is concerned about the grade and access of the road.

Johnson stated he supports MnLINC's work and the generosity of the Turnquists. He stated he is concerned about the private road agreement and the City's role in it. He stated the appropriateness of the ordinance needs to be revisited. He stated that the community is fairly evenly divided. He stated this use for the property is not appropriate.

Batty stated that if there is consensus that this use should not go on this property, the amendment would be simple. He stated that many CUPs in rural residential areas require that they be located on an arterial or collective road. He stated that the road issue could be added as a condition.

Weir inquired if snow would melt quicker, if the road was blacktopped. Kellogg stated that it is fairly shaded and wouldn't necessarily melt faster.

Johnson inquired if there was a road standard for gravel roads. Kellogg stated the City standards have changed.

Crosby stated the issue is if it is appropriate for health, safety, and emergency vehicles, which should be determined by the Police Department and Fire Marshal.

Belland stated that he has been in the area with a squad car and ambulance and he thinks they would be able to maneuver a fire truck.

Smith stated the CUP has been manipulated, but the ordinance could allow something much different.

Cavanaugh stated the ordinance could be repealed when MnLINC is done.

Johnson inquired if the application would still need to be considered if the ordinance was rescinded since the application was made when the ordinance existed. Batty stated that if the ordinance was rescinded, the Council would need to act on the application. He

stated the only option would be to deny it because there wouldn't be an ordinance to support it.

Cavanaugh stated if the CUP was passed, it would be a non-conforming grandfathered use. Batty stated that it would preclude the City from adopting another CUP, but it doesn't change the existence of this CUP.

Crosby inquired about the specifics needed to address the ordinance. Batty stated specific direction about what the ordinance should look like. He stated adopting amendments to the ordinance that still are not satisfactory would result in a similar discussion in the future with minimal discretion.

Johnson stated that specifics given to Staff would be the most useful and the Council needs to frame appropriate uses for rural residential areas.

Weir stated if the issue is the road, they shouldn't amend the ordinance and it may be better to rescind it after the CUP is finalized.

Johnson stated he doesn't think they need to require paving, but it should meet certain standards.

Smith inquired if a CUP change would be required, if MnLINC were to operate at an existing riding stable.

Crosby stated the various options for motions.

Robin Reid inquired if the applicant would need to reapply for a new CUP if the ordinance was changed. Crosby stated the applicant would need to meet the new conditions.

Crosby stated the main issue is the immediate neighbors' concern about the traffic and the other issues included the public safety of the roads and the rural character.

Moved by Weir, seconded by Cavanaugh, to direct Staff to prepare a resolution to amend the CUP for the Turnquist/MnLINC Conditional Use Permits for an Animal-Assisted Therapy Facility with specifics to both parcels being included in the CUP, the age limitation, and road approved to be safe by police and fire.

Johnson inquired about the 80 acres. Adams stated that it isn't 80 acres, but it is two parcels, totaling less than 80 acres.

Cavanaugh inquired about the age. Crosby stated that they should be enrolled at 17 and nobody beyond 20.

Johnson inquired if there are legal issues with the age. Crosby stated that Staff should check into the legal issues.

Cavanaugh stated that he would like the neighbors to be given the opportunity to gather and offer anything additional they would like to see.

Crosby stated that it is an open process.

3 ayes (Weir, Cavanaugh, Crosby) – 2 nays. Motion passed.

Moved by Johnson, seconded by Smith, to direct the Planning Commission to consider rescinding the ordinance.

Cavanaugh stated that if neighbors had spoken in the very beginning and that it would be done in two years, he would be more inclined to agree to rescind the ordinance.

2 ayes (Johnson, Smith) – 3 nays. Motion failed.

Moved by Smith, seconded by Johnson, to direct the Planning Commission to consider amending the existing ordinance to require a 75-acre minimum lot size.

Batty suggested that if the ordinance was amended, to be prepared to adopt a resolution that is consistent with the ordinance.

Weir stated that she would like this ordinance to sit and then rescind it in two years time.

Crosby stated he would be supportive of dealing with the ordinance after this CUP was passed.

Cavanaugh inquired if the Turnquists would be willing to take part of an agreement with the neighbors for a two year maximum.

Batty stated that the ordinance requires a minimum of 15 acres and an 80 acre restriction requires an amendment to the ordinance.

Johnson stated that this property will not be approved if there is a minimum of 80 acres.

Crosby stated the things that Smith was suggesting will mean that the application won't be approved. He stated that Cavanaugh was suggesting the ordinance be rescinded after the CUP is approved.

Cavanaugh inquired if there is anything that needs to be done to the ordinance. Johnson stated resolving the issue of the acreage by directing Staff to set a minimum acreage standard of 75 acres doesn't prevent this application from moving forward.

Adams inquired if the CUP conditions proposed tonight would require a change to the ordinance. Batty stated that changing the minimum acreage from 15 acres to 75 acres will require an ordinance amendment.

Adams stated the Council has provided direction tonight on the CUP to include conditions about the CUP applying to both parcels, the traffic safety, and the age limit. He stated that four Council Members have stated they would like to rescind the ordinance at some point in time. He suggested providing direction to the Planning Commission to rescind the ordinance and making it applicable after the CUP is approved, thus grandfathering in the Turnquist CUP.

Batty stated that he doesn't understand the intent of the Council.

3 ayes (Smith, Johnson, Cavanaugh) – 2 nays. Motion passed.

Cavanaugh inquired if there could be an immediate motion to rescind the ordinance after the two years. Johnson stated that they can't bind a future Council.

Rolf Turnquist inquired about the timing. Crosby stated the ordinance amendment will go to the Planning Commission on October 9, 2007 and it will come back to the Council on October 16, 2007, as will the resolution for CUP approval.

Adams stated the ordinance needs to be published prior to the resolution.

Batty stated that the ordinance could be adopted and the effective date for the resolution would be for the following day.

B. Resolution Requesting Turn Back of County State Aid Highway 115 (Hamel Road and Pinto Drive) and County Road 201 (Homestead Trail and Parkview Drive to the City of Medina)

1. Turn Back Financial Analysis

Adams stated Staff was directed to prepare a resolution for County review of turning back the roads to the City and provide a cost analysis. He stated they previously outlined the steps for turning back the roads and there isn't a guarantee that the County will turn back the roads.

Kellogg stated the roads in consideration are Hamel Road and Pinto Drive (CSAH 115), Parkview Drive (CR 201), and Homestead Trail. He stated Public Works reviewed the roads and noted the necessary improvements. He stated the estimated cost for improvements is about \$985,102 and the 20 year cost of ownership is about \$6,075,744. He stated other considerations include the cooperation of Orono for Homestead Trail.

Weir inquired if Orono has been contacted. Kellogg stated they have not.

Kellogg stated imposing the truck ban on these roads would have financial implications if the City would achieve a population of 5,000 and State Aid routes would need to be designated in north/south and east/west routes allowing truck traffic. He explained the calculations for estimating the amount of State Aid that could be received.

Smith stated that she has heard the pot of money for the State Aid is not increasing.

Kellogg stated that cities are reaching the population of 5,000 faster than the pot of money is increasing.

Crosby inquired about the current City budget for roads. Adams stated that it is about \$186,000.

Crosby stated there is a considerable cost. He stated he isn't against taking the roads back, but wants to explore all options. He stated he would like the resolution to include the possibility of some or a portion of the roads be turned back. He stated that he thinks in fairness to the other residents they need to factor in the cost.

Johnson stated that Homestead Trail is the largest portion and may be able to reduce truck traffic by taking back Homestead Trail and/or Parkview and not Hamel Road.

Cavanaugh stated that the annual tax levy is about \$2.1 million and they are discussing \$10 million over a twenty year period.

Johnson inquired if it includes the present value. Kellogg stated it is not present value.

Johnson stated there were a number of residents impacted by the dumping on Parkview and the traffic has decreased now that the project has ceased.

Johnson inquired if it is difficult or expensive and possible to count the trucks. Kellogg stated they could do it.

Crosby inquired if it is legal. Kellogg stated that he doesn't think the County would disallow it.

Weir inquired where it would lead them. Johnson stated that he wants to be responsive to the citizens, but it is not a small amount of money.

Cavanaugh stated that \$10 million over a 20 year period is a huge increase without exploring the alternatives.

Moved by Smith, seconded by Weir, to approve the resolution requesting review of turn back of County State Aid Highway 115 and County Road 201 to City of Medina, develop a process for counting traffic on the roads, and direct Staff to explore possible alternatives.

Kellogg stated that Smith had previously inquired if the County would disallow trucks on the roads and he has not heard back. He stated that if the City elects not to have State Aid the neighboring State Aid cities can not designate routes that terminate at Medina and provided examples of the roads.

Crosby suggested language for the resolution to reduce the speed and truck traffic.

Motion passed unanimously, with noted changes.

Kellogg stated that as the winter is approaching it gets difficult to count traffic.

Johnson inquired if it is more valid to do the counting in the spring and stated he would like to be able to speak to it with actual data. Kellogg stated that now is an opportune time to do the counting.

Crosby stated that he has been hearing concerns from residents to be sure that it is still being addressed.

Adams inquired if staff should proceed forward with the counting of trucks in the next few weeks due to sensitivity of time, or come back with a cost estimate as approved in the motion.

Kristin Grevich, 2782 Parkview Drive, stated that they all have non-conforming driveways and noted the danger of the road for the trucks.

A resident inquired if there would be counters placed on Hamel Road. Crosby stated that it would provide bad information due to a large project that is currently occurring on Hamel Road.

C. Ordinance Pertaining to Tree Preservation and Replacement Amending Section 828.41 of the City Code

1. Resolution Authorizing Publication of Ordinance by Title and Summary

Crosby stated that his issues include the developer's work prior to subdivision, the two specimen trees per year, and the use of willow trees.

Weir stated that trees don't control the urban heat island effect, but they decrease it. She stated the definition of a significant tree is unclear. She inquired about allowing the removal of trees by the developer and then individual owners.

Crosby stated that it could be drafted to be a cumulative total.

Finke stated that the sub-divider would do their work and then the individual homeowner would need to address it.

Johnson stated the developers are being incentivised to keep the trees.

Cavanaugh inquired about the removal of trees without replacing them. Weir stated the Planning Commission suggested allowing two trees per year as a way to not monitor every tree that is being removed. She stated that it is not about managing backyard trees, but is about development.

Johnson stated the focus is on preserving large stands of trees.

Crosby stated that the amount of trees that could be removed would be based on the size of a lot.

Smith stated they would be deforesting the area if they allowed two trees per year and it is excessive.

Johnson stated that if someone wanted to remove trees, they would band them so that they die and then remove them.

Weir inquired if there could be some language to allow flexibility for backyard management.

Crosby stated that he is concerned with the best management practices allowing for the removal of additional trees by granting waivers.

Smith stated that they should be mandated to use best management practices.

Moved by Cavanaugh to table the discussion until the next meeting. Motion died for lack of a second.

Weir stated that ashes weren't included because emerald ash borer is on the way and it will kill the trees.

Johnson stated that he doesn't think anyone is being recommended to plant ash trees.

Crosby stated that the list of trees should be reviewed by Staff.

Johnson inquired about the reason cedars are stricken. It was stated cedars aren't native.

Finke stated the list is from Dave Thill at Hennepin County Conservation District who received his information from the DNR Guide Book.

Johnson inquired if the waiver would be taken out. Crosby stated he doesn't mind the waiver, but it needs to be more restrictive.

VIII. NEW BUSINESS

A. An Ordinance Correcting Certain Erroneous Section References within Section 826 of the City Code Amending Sections 826.09; 826.15; 826.26; 826.26.1; 826.26.3; 826.33

1. Resolution Authorizing Publication of Ordinance by Title and Summary

Finke stated there was a reference error that exempted RR-1 from a minimum lot size requirement. He stated these are clerical references to fix cross-references.

Weir inquired about the reason the paddocks must be separated and planted with grass. Crosby stated that one reason is to move horses from one paddock to the next and as a buffer.

Smith stated there are many dry paddocks.

*Moved by Smith, seconded by Johnson, to accept an ordinance correcting certain erroneous section references within Section 826 of the City Code, as requested. **Motion passed unanimously.***

*Moved by Weir, seconded by Cavanaugh, to approve a resolution authorizing publication of ordinance by title and summary, as requested. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT

A. CSAH 101 Pedestrian Crosswalk Analysis

Kellogg stated there were three intersections looked at and it was found that the best location would be at CR 101 and TH 55. He stated that this would need to be done with modifications to the road. He stated that the next step is to discuss it with the County.

Weir stated her preference is to consider the other locations for the crosswalks.

Crosby inquired about the message for the meeting with the County.

Eleanor Degman from Gramercy stated that there are people who would like to shop and a sidewalk would be beneficial.

Kellogg stated that with any of the crosswalks there would be a sidewalk on the east side of CR 101.

Crosby inquired about who would pay for the crosswalks. Kellogg stated that would be part of the discussion with the County.

Adams noted this item could be discussed under Old Business at the next meeting.

X. MAYOR & CITY COUNCIL REPORTS

Weir inquired about variances granted for the length of cul-de-sacs. Batty stated that there should be a maximum distance between a cross street and that some cities address it by the number of houses.

Kellogg stated that there isn't a specific reason for the amount.

Weir suggested it be on the work list for the new year. She requested Staff look into the notice of inspection based on the letter from Mr. Dorweiler.

Adams stated that the tenants are trying to come into compliance and is his understanding the notice conversation was cordial.

Crosby inquired about the schedule for the open houses for the comprehensive plan. Adams stated it is October 25 at 7:00 p.m. and October 27 at 9:00 a.m. He stated there will be a mailing sent out.

Crosby stated he will miss the first Council meeting in November.

Weir stated she discussed with Adams the applications for the Planning Commission and requested Crosby stand in for the interviews if she is unavailable.

XI. APPROVAL TO PAY THE BILLS

*Moved by Johnson, seconded by Smith, to approve the bills, order check numbers 000099E-000101E and 031468-031536 for \$99,674.83, payroll check numbers 020105-020107 and 500784-500807 for \$38,519.19, and E Vendor payments 000094E-000098E and 031466-031467 for \$23,177.68. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Smith, seconded by Weir, to adjourn the meeting at 11:52 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Chad M. Adams, City Administrator-Clerk