

MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 19, 2008

The City Council of Medina, Minnesota met in regular session on August 19, 2008 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Cavanaugh (arrived at 7:28 p.m.), 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, Public Works Superintendent Steve Scherer, City Administrator Chad Adams and Recording Secretary Carol Hamer.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

Crosby stated following the closed session there will be a discussion regarding procedural elements in relation to the budget and special assessments on roads. Budget deliberations to set the preliminary levy will be conducted at the September 2, 2008 City Council meeting.

Johnson indicated he will not be present at the September 2, 2008 City Council meeting, as he will be out of the country.

IV. APPROVAL OF MINUTES

A. Approval of the August 6, 2008 Regular City Council Meeting Minutes

The following corrections were requested to the August 6, 2008 Regular City Council Meeting minutes:

Page 3, Line 26: "...no different than a parking lot, it is like a drive area..."

Page 4, Line 18: "...Holy Name has all the ~~bases~~ base work for the trail and parking lot done..."

Page 6, Line 49: "...a similar request has been ~~issued~~ denied in the past..."

Page 7, Line 18: "...She asked about Lot 2 and where the well will go with the closeness of the septic system..."

Page 11, Line 24: "...he agrees with ~~prohibiting~~ permitting solar panels..."

Page 12, Line 3: "...that a riding ~~range~~ ring is within..."

Page 12, Line 34: "...stated that ~~most~~ many Medina residents..."

Page 14, Line 40: "...stated there have been very few animal abuse issues but that the humane society responded..."

Weir questioned if Page 17, Lines 14 and 15 are correctly stated in the minutes. It was noted that Cavanaugh is not present at this time to verify the correct wording of his statement.

Page 18, Line 36: "...and she wonders what is the recycling participation rate..."

Page 19, Line12: "...Randy's Sanitation ~~wants~~ should be encouraged to send out coupons..."

*Moved by Smith, seconded by Johnson, to approve the August 6, 2008 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

- A. ~~Approve Fireworks Agreement with Melrose Pyrotechnics, Inc.~~
- B. Resolution Approving Off-Site Gambling Permit to Hamel Lions at 3200 Mill Drive
- C. Resolution Approving Premises Permit for Off-Site Gambling at 500 Highway 55
- D. Approve Change Order No. 1 to Well No. 7 Pumping Facility Project
- E. Accept \$50 donation from Residential Mortgage Group and Allocate to Child's Identification Machine
- F. Resolution Granting Extension of Time to File Final Plat for Walter G. Anderson Addition Amending Resolution 2008-36
- G. Approval of Internet Transfers with Farmers State Bank of Hamel

Adams asked to remove item 5A from the consent agenda.

*Moved by Smith, seconded by Weir, to approve the consent agenda with the removal of item 5A. **Motion passed unanimously.***

A. Approve Fireworks Agreement with Melrose Pyrotechnics, Inc.

Adams indicated Council has been provided with two addendums to the Fireworks Agreement with Melrose Pyrotechnics, Inc:

1. Melrose Pyrotechnics, Inc. will search the fallout area immediately after the display for any remaining product and debris. The fallout area will be raked to pick up debris from the display. The Melrose Pyrotechnic personnel will box and/or bag and remove the debris from their activities on the site.
2. Melrose Pyrotechnics, Inc. will allow an alternate date to be scheduled to a mutually convenient date within 9 months of the contract date of September 27, 2008. The display must be shot prior to June 7, 2009.

*Moved by Smith, seconded by Weir, to approve the Fireworks Agreement with Melrose Pyrotechnics, Inc. with Addendum 1 and Addendum 2. **Motion passed unanimously.***

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Madeleine Linck, Park Commission Member, stated the next Park Commission meeting will be tomorrow. She reported the following: 1) Hamel Legion Park: the bubbling boulder is bubbling and looks very nice. She encouraged residents to visit the park. 2) Tomorrow evening at 6:00 p.m. prior to the regular Park Commission meeting there will be an open house. Public comments are welcome on the plan for the concession stand at Hamel Legion Park, which will be discussed at the regular Park Commission meeting that night.

C. Planning Commission

Benetti reported on the following Planning Commission public hearings held on Tuesday, August 12, 2008:

- Hennepin County Public Works Facility PUD amendment request to add a 2.1 megawatt turbine and 55 foot high civil defense tower: The morning of the public hearing staff received many emails and phone calls from residents expressing concern with the wind turbine. The Planning Commission recommended on a 5-0 vote to recommend denial to the City Council on the PUD amendment which essentially affects the wind turbine and civil defense tower. This item will be presented to Council at the September 2, 2008 City Council meeting.
- Three Rivers Park District request for a CUP amendment at Baker Golf Center: The Three Rivers Park District has requested a CUP amendment for an additional golf storage building on the site. The request was unanimously recommended by the Planning Commission. This item will be presented to the City Council at tonight's meeting.
- Private Recreation Zoning District Standards: The three areas covered are the two golf course areas and the YMCA campground areas. Comments were received from surrounding neighbors verbally and through emails and letters. The Planning Commission determined to forward this item to the City Council at the September 2, 2008 City Council meeting under ordinance review.

Benetti stated there was also a brief discussion on the Mixed Use Zoning District.

VII. OLD BUSINESS

A. German Liberal Cemetery Association Request to Transfer Cemetery to City of Medina

Adams stated that included in the Council packet is a memo summarizing the zoning ordinance compliance of the German Liberal Cemetery (GLC), in the context of discussions about the City taking over maintenance and/or administration of the cemetery. Notice was made to neighboring property owners of the cemetery letting them know that the City Council will be discussing this tonight. In addition, an article was included in the City newsletter. Adams stated the major focus of tonight's meeting is to get public input on consideration for the transfer of ownership and maintenance of the cemetery to the City sometime in the future. The German Liberal Cemetery Association (GLCA) considered the limitations discussed by the Council. Included in the Council's packet is a memo from the GLCA endorsing one of any combination of the following limitations regarding the sale of burial sites: 1) immediate family (parents/spouse/children) of existing owners only; 2) residents of Medina only; 3) open sales for a specified period of time.

Adams stated this item is on the agenda tonight for public comment and discussion and for Council reaction to the public comment and discussion. If Council is amenable to consideration of the City taking over maintenance and/or administration of the cemetery, staff will prepare a more thorough report outlining the steps and costs, and laying out a management plan of such an option.

Crosby invited comments from a representative of the German Liberal Cemetery Association. He asked whether the conditions laid out by staff are acceptable to the Association. He noted the concept is of the City taking over the cemetery to keep it out of disrepair.

Ann Thies, GLCA, stated the GLCA Board held a special meeting where they concurred and recommended support of the options outlined at the last City Council meeting. She explained a vote is still required by the Association.

Crosby asked who makes up the membership of the Association. Thies replied the Association would include anyone who owns a lot at the cemetery. The current status at the cemetery is 95 sold lots, 44 of which are occupied, 5 obstructed sites, and 210 available sites.

Crosby questioned how many individuals would likely show up for a vote if this issue were to be put to a membership vote. Thies stated there would likely be approximately 10 individuals that would vote.

Smith questioned if there is a majority of members required to vote. Thies responded in the negative. She indicated that voting can be done by proxy, which is permitted by regulations.

Crosby inquired about the amount included in the perpetual fund and the anticipated expenses. Thies replied the fund balance at the end of the month was \$64,500. Duties are completed by volunteers, although there is a contract for mowing that amounts to \$500 to \$600 per year. Most of the major expenditures have been completed; the road and other needed improvements were just completed. Friends and family plant flowers in the spring and take care of them throughout the summer. There is not much to be done other than lawn mowing and record keeping.

Crosby requested clarification as to the number of lots that are sold but not occupied. Thies indicated there are 139 sold lots, 44 of which are occupied; 95 lots are sold but not occupied. The selling price per lot is approximately \$600.

Cavanaugh arrived at 7:28 p.m.

Smith noted a motion was made by the GLCA Board of support for the following: 1) immediate family (parents/spouse/children) of existing owners only; 2) residents of Medina only; 3) open sales for a specified period of time. She requested an estimate on the number of eligible people for the sale of lots. Thies replied the immediate family eligible to buy a lot is minimal. Parents typically buy a couple lots or more if a child dies and lots are often purchased in husband and wife combinations.

Crosby noted one issue would be the 95 owners that have purchased lots and whether they would be able to purchase adjacent lots.

Smith clarified she would like to understand the potential number of lots that could still be sold according to the agreements.

A member of the GLCA indicated currently there are three cremations allowed per lot.

Smith stated her position is interest in shutting the door as soon as possible.

Weir noted there had been discussion about a sunset date when the cemetery would be closed, which is not mentioned in the letter outlining the Association's agreement to the City's limitations.

Thies stated she believes the Association has been very professional on how the cemetery has been run.

Smith stated the cemetery has greatly improved since she first came to the City.

Adams stated the Star Tribune West article discussed how other cities have taken over private cemeteries like this. Staff has been in contact with three of these cities; some have limitations on the cemeteries, and others have kept it open to the general public for the lots to be sold.

Crosby invited members of the public to speak.

Jim Lane, 2605 Hamel Road, stated he owns property immediately east and southeast of the cemetery property and has lived there for 36 years. Prior to the sale of property immediately adjacent to the cemetery in 1981 he owned property on three sides of the cemetery. Their proximity and interest in the use and operation of the cemetery has been steady for a long period of time. They have communicated suggestions in written form to the City this evening, and he requests that this memo be included in the record of this discussion. If additional facts will be added he would defer his comments until there are more complete facts on the table. Mr. Lane stated his preference, the preference of his wife, and that of Marianne Sharma who lives immediately south of the cemetery, is that the present commercial level of activity in the cemetery be terminated. They believe that the commercialization of the cemetery in the mid 1990's was not a well-advised business model. It was a poorly regulated decision at the City level. If the City is being asked to take over the cemetery he suggests it has not worked out as well as it was planned. They believe one solution would be to suspend operations and maintain the cemetery in a dignified and respectful manner. Lane stated in 1996, prior to the reopening of the cemetery, there were very few burial plots there with very minimal burial activity. The cemetery sites date back into the mid 19th century and include burial sites of many people whose names are synonymous of the history of Medina. There was little or no activity at the cemetery for a long period of time. As has been testified, the cemetery became overgrown, but there was not significant burial or cemetery activity to speak of. In the mid 1990's a decision was made to plat or replat burial plots and sell those lots, and a lot of them have been sold. Three to four dozen people have been buried in the intervening years. This is his definition of commercialization. He suggested an alternative or back up proposal would involve allowing interment of cremated remains only on existing burial plots by immediate members of families who own those lots or who are already buried there.

Cavanaugh inquired about the difference between burying someone versus cremation.

Smith pointed out a burial would involve a large coffin as opposed to small box or container with a cremation. Crosby pointed out that a ceremony would be involved with both a burial and a cremation.

Lane stated more expert testimony should be solicited from people in the business of mortuary science regarding the differences. In his opinion, if his well was located 100 to 150 feet from the cemetery, the burial from human remains versus ashes would be a significant difference. Fundamentally it is a public health issue.

Crosby requested information regarding the physical procedures regarding burials and cremations. Thies stated the individual used by the Association to dig graves works at many of the cemeteries in the area. A small backhoe is used to dig the grave site; cremated ashes are required to be in a vault as well.

Smith pointed out that the difference would be between a small box and a large coffin.

Johnson noted under the current Association policy, three cremations can be included on the same lot.

Wayne Popham, 2725 Hamel Road, stated he owns the property that adjoins the cemetery on the west. When he first heard about the proposal that the City take over the cemetery he assumed there were no funds to maintain the cemetery. His feeling was that if the City Council decides this is something they should do he would not oppose it, but he does not think the City should be operating the cemetery; if the City takes the cemetery over it should be closed. Popham stated when he listened to the presentation tonight and saw that it costs \$500 per year to maintain the cemetery and there are funds of \$60,000 in reserves, he does not understand why the City would be asked to take over the operation of the cemetery, so he has changed his feelings. He thinks if the City decides to take the cemetery over the active use of it should be concluded and it should just be maintained.

Crosby stated he agrees that the City should not be in the cemetery business. The State Statute is designed to save historic cemeteries and keep them from going into total disrepair. The reason this was presented to the City was not due to a lack of funds, but because there has been a group of local residents that have been operating the cemetery as volunteers for a long time and they see a time in the not too distant future where there will be no successor volunteers. They would like to deal with it now while the volunteers are still around as opposed to doing nothing, with the problem descending on the City a couple years from now.

Popham stated he would think if the City were to take the cemetery over next week the number of volunteers that would continue to work would diminish immediately. The appropriate time to come to the City to meet the purpose of the Statute is when the funds are used or there are not volunteers.

Crosby noted there are issues such as could the cemetery state that they recognize the 95 lots that have been purchased, but that they are limited to cremations. Popham stated he believes that persons who own property do so subject to changes in the law; setbacks, and all of those things happen that government bodies find are in the public

interest. Limitations would be subject to whatever legal restrictions exist on the Council taking over the cemetery.

Crosby stated he would be curious to know some of the experiences other cities have had in this area. Adams indicated staff has not prepared a lot of information for tonight's meeting. Additional information could be presented at a future meeting. He believes a perpetual fund could be turned over to the City and put into a special revenue fund where the funds would be dedicated only to perpetual care of the cemetery for future maintenance costs.

Crosby stated his preference to work towards a sunset. He pointed out that with the proposed commercial cemetery that wanted to go in on Highway 55, there were issues such as the road being wide enough for funeral processions, public restroom facilities, etc. This cemetery would fail on virtually all of those tests if it were to be looked at as a cemetery today. He stated in his view this would be more to maintain a historic relic of the City in a respectable way rather than being in the cemetery business.

Smith stated philosophically she has a problem with the City taking over the cemetery. She understands taking over a historical site, which would mean no new activity. She believes if the City takes the cemetery over it should be closed. In her view the only way it would be acceptable is if the door is shut when the City takes the cemetery over. The perpetual care will take more than just the \$500 to \$600 per year for mowing; there will also be the need for an individual to show where the lots are located, etc. She stated the parking is incredibly limited and the access is a relatively blind intersection. It fails every one of the criteria the City has set for cemeteries. It is incomprehensible that the City would consider taking over something that is not in compliance with the existing ordinance and let it continue operating.

Johnson stated his sense is that this organization has come to the City in an effort to plan. They see a problem in the future and would like to honor what they have done and have a planned transition to a future state. It is a fairly simple matter for the Council to say the City is not in the cemetery business and let the Association go on doing it. The alternative in the Association's point of view is to continue to operate in the same manner, and his sense is that will not make the residents around the cemetery happy. He stated with all due respect as to whether the City should be in the cemetery business, it seems there is a potential common good that would come from this.

Crosby stated his concern is if the City does not take the opportunity now that people less concerned than the current Association could operate the cemetery. He questioned if the cemetery would fall under a grandfathered situation. Batty responded in the affirmative.

Cavanaugh requested clarification regarding the sold plots. Batty replied the statute states that lot owners are entitled to the same rights and privileges concerning their lots after the transfer as if the transfer had not been made. There would be many details to work out.

Crosby stated the City should look at the documents pursuant to which people are buying the lots, and that the Association currently running the cemetery should either stop selling lots or be very cautious going forward in selling lots.

Smith stated this cemetery violates every single regulation for cemeteries. She understands that the cemetery would be grandfathered in, but it is one thing for the current Association to do this and another for the City to take it over and continue to operate it. It would be more palatable to say if the City takes it over the door will be shut on more sales. She stated the City needs to honor the past and keep the cemetery in good condition.

Adams stated staff is requesting direction on whether to prepare a more formal feasible report on the transfer of the cemetery. He requested a collective consensus of the Council on whether to proceed prior to going through a formal analysis on whether to consider the transfer request with limitations.

Smith stressed the importance of clear limitations.

Adams noted the following options to bring back for Council consideration: 1) Shutting the cemetery down; 2) An option outside of completely shutting down the cemetery.

Johnson noted this is linked completely to the rights held by the 90 individuals that have purchased lots. This is the first step in the process, and if the rights are too broad the City may not want to take them on.

Crosby suggested he be provided with questions about the cemetery business that he can obtain information without paying for legal costs.

Council consensus was reached to direct staff to conduct preliminary research on a transfer plan for the German Liberal Cemetery and get governing documents of the cemetery as well as contracts with the owners of the lots.

B. Utility Agreement Between the City of Medina and City of Corcoran

Crosby stated he has read the redraft of the Utility Agreement and provided comments to staff.

Kellogg provided an overview of the peak flow factor in relation to the Utility Agreement.

Mayor Crosby inquired about the capacity as this goes into Corcoran. Kellogg replied the pipe is designed for considerably more capacity than included in this agreement. He explained this agreement is limited to Phase 1; anything beyond the limits of Phase 1 will need to be renegotiated. Adams stated this pipe is sized for everything out to County Road 19.

Crosby questioned why the peak capacity in Phase 1 would be the flow capacity of the pipe. Kellogg replied it is not; the ultimate capacity exceeds 248,000 gallons peak flow. A portion of that capacity was assigned to this area; if it is exceeded there are triggers to sit down and discuss this again.

Johnson calculated that approximately 2/3 or ¾ of the pipe capacity is being reserved for Medina's use. He requested staff to provide Council with the percentage of the allocation of the flow capacity.

Smith stated one of her major concerns is to have a limit so there is assurance that there will be enough capacity for Medina's development, and it sounds as though this has been addressed.

Adams provided clarification regarding Addendum 1. He outlined the area where the City of Corcoran had requested a potential hookup if there were to be capacity available. Staff said no; Exhibit A will only refer to the business park, and the cross hatched area on the map will be struck. Including this area will require renegotiations and a formal addendum to the contract.

The following changes were agreed to in the contract:

- 4.2.2: The connection charges will be consistent with the fee schedule
- 2.4: "...within its ~~boundaries~~ corporate limits and shall maintain them in good operating order ~~per~~ in accordance with specifications..."
- 2.6: ""...in the same fashion as other users of the Medina's system."
- 2.8: "... within its ~~boundaries~~ corporate limits..."
- 6.2: "In the event that this Agreement is terminated, other than ~~by default of Medina,~~ through an uncured fault..."

Adams explained the need for Medina to preserve future rights to access the trunk line in the future. Easements may need to be obtained in the future to access the connector. Kellogg suggested that Corcoran grant Medina the right to use 20 feet of their right-of-way on Pioneer Trail for the extension of sewer and water

Council consensus was reached to direct staff to negotiate with Corcoran for an agreement stating that Medina has the right to use Corcoran's easement in order to connect to the trunk line.

Moved by Johnson, seconded by Weir, to approve the Utility Agreement by and between the City of Medina and City of Corcoran with the above changes and that the Mayor and City Administrator be authorized to execute the agreement with technical changes.

Motion passed. Cavanaugh abstained.

C. Preliminary Plat to Rearrange Lot Lines Between Two Existing Lots – Luetmer and Druk, 2920 and 2930 Parkview Drive

Benetti stated the City Council discussed the preliminary plat for High Pointe Ridge 2nd Addition at the August 3, 2008 City Council meeting and requested additional information. The re-plat rearranges property lines between two existing lots. He stated updated septic designs were prepared to verify that the secondary site on Lot 1 was still adequate and was not impacted by grading on the site. Additionally, two new sites were identified for Lot 2, farther from School Lake.

Benetti stated Gronberg and Associates prepared a comparison of the existing topography within the Minnehaha Creek Watershed easement to what existed back in 2005 when this property was first involved in the subdivision process. He stated Gronberg determined that the elevations were unchanged within the watershed district easement, indicating no fill was placed in this area. Benetti noted that the Council also discussed wetland fill, which occurred during construction of the home on Lot 1. Upon review of the as-built survey this spring, staff had noticed that the grade was altered within a portion of the wetland, which extends through the west portion of the property. Staff required the applicant to quantify the impacted area, and approximately 30 square

feet of wetland was filled. This information was reviewed by the City's wetland engineer, who responded that this amount of fill is considered de minimus under the Wetland Conservation Act. Benetti stated the Planning Commission reviewed the application at the July 8, 2008 Planning Commission meeting. The plat does not create additional lots and appears to meet ordinance requirements. The Commission unanimously recommended approval of the plat with the conditions suggested by staff. He stated the applicant and Mr. Gronberg are present tonight.

Cavanaugh stated at the last meeting he asked about Site 1 due to the level of activity. He expressed concern that the letter from Gronberg does not state that the site was perc tested again.

Mark Gronberg, Gronberg & Associates, Inc., stated Rusty Olson looked at both of the sites; a letter or report was issued to the City that said both of those sites were still viable.

Cavanaugh questioned if the site was perc tested again. Mr. Luetmer, applicant, stated the perc test was done at the time that they located the two septic sites for Lot 2. It was verified that nothing had been disturbed and the perc testing was redone on Lot 1. Benetti stated he can verify this. He and Dusty Finke went to the property and saw the perc holes.

Johnson stated it has been a point of concern for him since he has been on the City Council that developers hire contractors to do perc tests and survey work. This strikes him as an innate conflict of interest. He suggested the Council consider a policy that the surveyor or contractor doing the test is the City's agent, not that of the developer.

Kellogg indicated that staff verified the wetland fill. It was flagged in the field, had the survey for pre-fill, and there is a letter on file stating this.

Crosby questioned if there is a list of individuals approved by the City to perform engineering work. Kellogg stated any wetland work is reviewed by the City's consultant.

Crosby questioned if there is a list of individuals approved by the City to perform engineering work in relation to septic systems and perc tests. Benetti stated septic service providers are licensed by the State.

Johnson stated he would like to think that the surveyor completing the work has some responsibility to the City. He expressed concern that in all cases when there are developers in front of the City, the surveyor is working for the developer. Batty noted that the broader point being raised is that there are specific types of information that the City verifies. The City requires that surveyors be licensed, and reviews the documentation, but Bonestroo does not go out and conduct a survey. The City Engineer does not double check all the survey work.

Johnson stated his support of a policy where the surveyor that is hired would be an agent of the City. Crosby noted that this would make for affirmative representation to the City.

Benetti explained that most developers that either present a site plan or a building permit are usually working with a state licensed and certified architect, engineer, wetland specialist, or septic specialist.

Smith pointed out that just because an individual is licensed it does not mean they are reliable, honest or ethical. She stated her support of continuing the discussion on the policy suggested by Johnson.

Crosby directed Adams to discuss with Batty how to close the loop on obtaining representation by a third party to the City as discussed above.

Smith requested that condition no. 5 be amended as follows: “The septic system and alternate system for Lot 2 shall be located out of the conservation easement and as far from the lake as practical to minimize impacts on the existing conservation easement during installation and future maintenance.”

Cavanaugh stressed the importance of the perc test. He questioned if approval can be conditional on verification that the perc test was redone. Benetti replied that the resolution still needs to be prepared. In that time it will be verified that all of the perc tests are up to snuff. If there are any questions or concerns it will be brought to another septic expert.

Smith clarified that Council should be presented with information showing that the perc test on Lot 1 was redone. Cavanaugh concurred and stated Council should be shown the results of the perc testing, not just a statement in a letter.

*Moved by Weir, seconded by Cavanaugh, to direct staff to prepare a resolution for approval with conditions as noted and condition no. 5 as amended above. **Motion passed unanimously.***

VIII. NEW BUSINESS

A. Conditional Use Permit Amendment for Golf Cart Storage Building – Three Rivers Park District (Baker Golf Course), 2935 Parkview Drive

Benetti stated Three Rivers Park District has requested approval of an amendment to the existing Conditional Use Permit (CUP) for Baker National Golf Course to allow construction of two 1,760 square foot structures to store golf carts. They also seek approval for a small future addition to the clubhouse building for the purposes of building an ADA accessible restroom and shower-room. Benetti stated the subject property is zoned Public/Semi-Public, where institutional outdoor recreational activities are listed as a conditional use. The original CUP was granted to the property in 1988, when the course was expended to 27 holes and the club house was constructed. Since that time, a number of amendments have been granted, allowing additions to the clubhouse and construction of various accessory structures for course maintenance. Staff suggests integrating these amendments into one comprehensive CUP for the golf course operations so that there is only the need to reference one resolution for the required operational conditions.

Benetti stated Baker National Golf Course is located on two parcels, which are 529 and 156 acres in size. He reviewed the location of the golf course, the existing structures on the site, and the location of the proposed golf cart building and restroom/shower-room

addition. Benetti provided an overview of the building details. He advised the proposed structures and cart driveway increase the hardcover on the site by approximately 1,122 square feet. Runoff from the area runs predominantly overland to a retention pond near the maintenance building for treatment.

Smith questioned if runoff will flow over-ground. Benetti replied he believes some will. Staff discussed incorporating Low Impact Development (LID) techniques on the site, including porous concrete or pavers. The applicant suggested doing landscaping under the eaves and downspouts to help capture runoff. Benetti stated the nearest wetland is over 1,000 feet to the southwest of the golf cart building location. The Park District maintains a minimum of 20 feet native upland buffer around wetlands. Because of the relatively small amount of disturbance, the distance from the proposed construction to the nearest wetland, and because drainage is directed into a treatment pond, staff does not believe the Upland Buffer requirements of the wetland ordinance are triggered. However, the existing 20-foot buffers maintained by the Park District would meet the requirements of the ordinance.

Benetti provided an overview of the considerations of the CUP Ordinance compliance. He advised the Planning Commission unanimously recommended approval of the amended CUP. The Commission recommended removing the condition from previous CUPs that limited the maximum number of employees, which was a recommendation of staff. The Commission supported allowing 5% additions to existing buildings as recommended by staff, but recommended changing the language so it is clear that numerous 5% additions could not be added over time. Benetti stated staff recommends approval of the amended CUP with the conditions included in the staff report. Staff suggests combining the conditions from the eight separate CUP resolutions and including them in this approval. Staff also recommends a condition, which allows 5% additions to existing buildings via an administrative review.

Council reviewed the architectural renderings.

Johnson suggested the addition of architectural elements to break up the expanse of the long roof.

Smith stated she would like a guarantee that there will be landscaping incorporated to absorb runoff. Benetti replied this will be a condition of approval.

*Moved by Weir, seconded by Smith, to direct staff to prepare the CUP resolution for approval with conditions as noted, and with the incorporation of design changes to break up the roof line and additional landscaping to absorb runoff. **Motion passed unanimously.***

B. Septic System Assessment and Maintenance Program

Benetti provided an update on the Septic System Assessment and Maintenance Program, including the following information:

- 80% of systems have been pumped and assessed (deadline was 8/1/08)
- 15 systems reported necessary maintenance being completed as a result of the assessment, including replacing baffles and pumps
- 11 replacement septic systems were installed since August 2008 (compared to 2 systems the previous year).

Benetti stated 145 property owners have not returned report forms as required. Notices were sent to these property owners in August 2007 and May 2008. A number of notices were returned as undeliverable, especially for houses that were for sale. Staff highly recommends one final notice to property owners who have not returned the report with an absolute deadline of September 30, 2008.

Benetti provided an overview of the following enforcement options:

1. Hire a septic pumper to enter the property, pump the tanks, assess the system, and perform necessary maintenance.
2. Hire a septic inspector to conduct a compliance inspection on the system, "tag" all non-compliant systems to be updated within three years.
3. Hire an inspector to conduct abbreviated inspections (without pumping tanks) to verify that systems are not imminent health threats.

Crosby requested information regarding non-compliant systems. Benetti replied a non-compliant system still operates but does not meet current standards.

Smith stated if a system is tagged by an inspector there should be a requirement that the system is pumped.

Crosby asked what staff's feeling is regarding the 145 property owners that have not returned the report form. Benetti replied these property owners are likely either ignoring the notice, or in some cases some are being returned undeliverable when the houses are for sale or vacant. Batty stated it would be fair to say that a good number of people not returning the form are not having the tests done because they know what to expect and do not want to know the answer.

Smith stated houses that are for sale should be required to pump the system if it is needed. Benetti commented that the seller will often take care of the system as part of the deal with the house sale.

Crosby asked if the City would have the ability to assess the owner on property taxes if they were to proceed with option 1. He inquired about possible problems resulting from going onto someone's property and interfering with their septic system that has not been opened up for 15 years. Batty replied the ordinance provides the City the ability to assess both the pumping and the inspection. There is some tweaking that would need to be done with the ordinance. The ordinance does not require City inspection first; it gives the option for the property owner to have someone else do the inspection. The problem would likely be as with any other inspection, the City would need to seek permission, and if they are refused his advice would be not to go onto the property until receiving some sort of administrative warrant. He does not know what problems might be caused by opening up the systems; they may want to more fully evaluate this before doing that on regular basis.

The meeting was recessed at 8:58 p.m. and reconvened at 9:05 p.m.

Crosby stated the notice should state that if there is no response by September 30, 2008 appropriate legal action will be taken to inspect the property and to assess costs of doing so against the property owner as permitted by the current ordinance.

Batty requested the opportunity to work with staff and discuss the procedure step by step.

Cavanaugh stated in his opinion systems that are tagged should be fixed within a certain amount of time. Crosby noted that compliant systems that are still working would be allowed 3 years. Batty advised that the ordinance provides distinctions in relation to systems that are an imminent health threat.

Crosby inquired about oversight by the County in relation to septic systems. Batty replied many cities refer to the County; some cities have a point of sale ordinance, which Medina does not have. He explained that State law gives counties authority in this area unless the city opts to take it upon themselves. Hennepin County requires that notice be submitted every three years, but does not take any enforcement action unless there is a situation such as sewage on the surface.

Crosby asked whether notices should be sent out via certified mail. Batty responded in the negative. He suggested regular mail and hand delivery, and ultimately if people do not respond staff will knock on the door and ask for entry.

*Moved by Smith, seconded by Weir, to direct staff as follows on the Septic System and Maintenance Program: Send final notices informing residents of the absolute deadline date of September 30, 2008. The notice should reference the ordinance authorizing the City to check the septic system. The preferred enforcement option of the Council is a combination of Options 1 and 2 with a requirement to pump systems when necessary, and with language included that appropriate action will be taken to complete the inspection and to remedy health hazards. **Motion passed unanimously.***

Cavanaugh asked whether discussion is needed on the fee schedule. Benetti suggested discussing the fee schedule at a later meeting after staff has discussed this with Batty. Batty advised the fee schedule should be determined sooner rather than later; any costs incurred by the City should be recovered.

IX. CITY ADMINISTRATOR REPORT

A. Uptown Hamel Parking Analysis

Benetti stated staff has completed a broad analysis of what parking needs may be for this community. He reviewed the following information regarding the analysis:

- Location of study
- Existing parking
- Potential off-street public parking areas

There was discussion of potentially available property for additional parking.

Council consensus was reached to direct staff to determine available parcels and the asking price for potential parking of such possible sites.

Benetti provided an overview of the assumed overall parking and land needs. He stated staff will be looking closely at upping the retail parking requirements and also discussed looking at a land to building ratio table. At this point staff does not think there are any problems with parking; it will not likely be a problem until redevelopment begins.

Crosby noted that staff has completed the background work and will keep an eye on parking needs. He stated his support of talking with Mr. Jacob's about cooperative parking with the City if he comes forward to the City.

Weir inquired about staff's recommendation as a ratio for retail. Benetti replied other communities could be looked at for examples. 250 sf/stall is very reasonable; 350 sf/stall might be even more reasonable for this type of tight area.

Smith suggested looking at the office use parking ratio requirement also.

Weir suggested reviewing the ratio outside of the Uptown Hamel area as well.

Crosby suggested a review of parking requirements in the City of Wayzata. Smith suggested a review of parking requirements in the Excelsior Grand area in St. Louis Park.

B. Low Impact Design Implementation

Adams reviewed the following options for consideration on Low Impact Design (LID) implementation:

- 1) Focus more on requiring or mandating LID in some areas and continue to go through land use ordinances.
- 2) Prepare an LID ordinance; there is a variety of sample ordinances that could be brought back to the City Council for review.
- 3) Be more proactive with public projects, such as more formally starting a rain garden project.

Adams requested discussion from Council on how to proceed with LID implementation.

Weir stated in the Minnehaha Creek Watershed District, LID is a constant emphasis at the TMDL and Watershed meetings. One area she is interested in looking at is a reduction of road widths, particularly in subdivisions.

Smith stated her position that staff should have direction from the City Council to be proactive with LID requirements when there are inquiries at the City. Johnson concurred and stated his support in taking the next step to create this type of culture in the organization, including staff, the Planning Commission and the City Council.

Adams stated this topic will require staff discussion. There are many different methods to be utilized, such as CUP's and PUD's, but some type of formal document would give guidance.

Weir asked what is needed for staff to look into road width. Adams replied this will be discussed by Engineering, including things that Bonestroo is doing to incorporate some of these methods. The fire issue will need to be addressed as well.

Council consensus was reached to direct staff to look at options for implementation of LID practices in the City's ordinances to be presented to the City Council for consideration.

C. Planning Director Probationary Status

Adams recommended that the probationary status of the Planning Director be extended to January 21, 2009.

*Moved by Weir, seconded by Smith, to extend the probationary status of the Planning Director to January 1, 2009. **Motion passed unanimously.***

X. MAYOR & CITY COUNCIL REPORTS

Weir announced a League of Women Voters City Council / Mayor Candidate Forum is scheduled for October 16th at the Hamel Community Building.

Smith announced a County Commissioner Forum is scheduled for Thursday this week in the City of Plymouth.

Cavanaugh suggested that Medina Entertainment Center and Highway 55 Rental be requested to post the forums on their reader board.

Weir suggested that the tracking dog demonstrations done by a local resident be included in events at Medina Celebrations Day. Adams requested Council to provide staff with additional items soon in order for the planning committee to consider them in the event.

XI. APPROVAL TO PAY THE BILLS

*Moved by Weir, seconded by Johnson, to approve the bills, EFT 000284-000289 for \$26,488.36 and order check numbers 032800-032867 for \$235,263.24 and payroll check numbers EFT 501437-501469 for \$44,218.22. **Motion passed unanimously.***

Crosby asked whether the large concepts still under discussion in relation to the assessment program can be discussed further at the September 2, 2008 City Council meeting. Adams replied the discussion can be continued at the September 2nd meeting or a special meeting that would need to be held by September 15, 2008. He noted that the special meeting on this topic was continued until after this meeting.

The meeting was recessed at 9:50 p.m. to allow the public, recording secretary and camera person to exit the room.

XII. CLOSED SESSION: Labor Agreement with LELS Local #36

Adams announced that Police Chief Ed Belland, City Administrator Chad Adams, Mayor Tom Crosby, and Council members Carolyn Smith, Joe Cavanaugh, Elizabeth Weir and Dan Johnson were entering closed session at 9:58 p.m. to discuss a police labor agreement with LELS Local #36.

The Council reconvened the meeting into open session at 10:20 p.m. The Council directed the City Administrator and Police Chief to continue negotiations on the labor agreement.

XIII. ADJOURN

*Moved by Weir, seconded by Johnson, to adjourn the meeting at 10:22 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Chad M. Adams, City Administrator-Clerk