

## MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 20, 2009

The City Council of Medina, Minnesota met in regular session on January 20, 2009 at 7:05 p.m. in the City Hall Chambers. Mayor Crosby presided.

### I. ROLL CALL

**Members present:** Crosby, Siitari, Smith, and Weir.

**Members absent:** Johnson.

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Public Works Superintendent Steve Scherer, City Administrator Chad Adams and Recording Secretary Carla Wirth.

### II. PLEDGE OF ALLEGIANCE

### III. ADDITIONS TO THE AGENDA

*The agenda was accepted as presented.*

### IV. APPROVAL OF MINUTES

#### A. Approval of the January 6, 2009 Regular City Council Meeting Minutes

It was noted on Page 6, a new agenda subtitle should be inserted as Line 48: Water Access Charge/Sewer Access Charge, Line 50, "...Medina's Water Access Charge/Sewer Access Charge (SAC/WAC) fees of over..." Page 8, a new agenda subtitle should be inserted as Line 15: Sanitation Service, Line 43, "The Council indicated the competitive bid..." Page 10, Line 44, "...for Lake Independence." Page 14, Line 15, "...link with the existing Baker Trail that runs adjacent to Homestead for part of its length. Page 15, Line 12, "...property or to diminish their pleasure of living in that community next to them. Page 16, Lines 22-23, "...related to the removal of trees and filling wetlands to comply with new green acre regulations, ~~converting the property to green acres, in order to continue~~ to pay lower taxes."

*Moved by Weir, seconded by Smith, to approve the January 6, 2009 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### V. CONSENT AGENDA

#### A. Approve EPDB Conditional Use License Agreement w/ Hennepin County

#### B. Approve Raffle Permit for Turn in Poachers – West Metro Chapter at 500 Hwy 55 on March 1, 2009

#### C. Approve Road Material and Equipment Specifications, Authorize Advertisement for Bids, and Set Bid Opening for 10:00 a.m. on Friday, February 20, 2009 at City Hall

#### D. Approve 2009 Pay Equity Report

#### E. Accept Donation from Hamel Fire Relief Association

#### F. Dispose of 1997 Public Works Tandem Truck and Snow Equipment

#### G. Dispose of 2005 Crown Victoria Police Squad

- H. Resolution Accepting Resignation of Planning Director Tim Benetti
- I. Resolution Granting Approval of Preliminary Plat with Variance to Michael Anderson for Property Located at 985 Medina Road and 995 Medina Road
- J. Resolution Granting Front Yard Setback Variance to Michael Anderson for Property Located at 995 Medina Road
- K. Resolution Recognizing Administration Intern Kim Ann for Service to Medina
- L. Resolution Certifying Delinquent City Charges for Services to the Hennepin County Auditor for Collection in 2010

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

## VI. PRESENTATION

### A. Hamel Legion Park Field House (Concession Building)

#### 1. Donation to Project from Hamel Athletic Association

Gerry Dykhoff, representing the Hamel Athletic Association, stated on behalf of the Hamel Athletic Association and all donors he has the pleasure to present a check for \$98,458.88 for the Field House project. Dykhoff requested that the City construct a building of sufficient size and scope to do justice to the present and future needs of Hamel Park. He introduced Hamel Athletic Association President John Kastner and Treasurer Dave Nelson.

Crosby accepted the check on behalf of Medina and thanked the Hamel Athletic Association and Gerry Dykhoff in particular. The Council Members acknowledged this generous donation with a round of applause and all agreed this donation was a remarkable achievement.

*Moved by Smith, seconded by Weir, to accept the donation in the amount of \$98,458.88 from the Hamel Athletic Association to be allocated to the Field House project. **Motion passed unanimously.***

#### 2. Appointment of Project Task Force

Adams presented the staff report advising of those interested in appointment to the Field House Task Force and that their meetings would be subject to the open meetings law and would therefore be open to the public.

Smith stated her support to appoint Beth Nielsen who was a Park Commissioner but is now a newly appointed member of the Planning Commission.

*Moved by Smith, seconded by Weir, to appoint Council/Parks Liaison Carolyn Smith, Park Commissioner Ben Benson, Park and Planning Commissioner Beth Nielsen, and residents Dave Nelson and Tom Dykhoff to the Field House Task Force.*

***Motion passed unanimously.***

## VII. COMMENTS

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

There were none.

**B. Park Commission**

Madeleine Linck, Park Commissioner, stated at their January 22, 2009 meeting, they will welcome two new members and look at the Park Ordinance. Crosby noted the Master Trail Plan had been approved at the last Council meeting.

**C. Planning Commission**

Robin Reid, Planning Commissioner, reported that at their last meeting they unanimously elected Charlie Nolan as Chair and her as Vice Chair and welcomed Beth Nielsen to her first meeting. Since the public hearings were postponed, Attorney Batty led a training and orientation session. Reid advised of the topics covered and stated they found this to be very good group training. She stated that the agenda for next month is not yet finalized, but the Woodridge application may be considered and an ordinance related to church development standards may be discussed.

Crosby stated he found the training materials were very good as a guidebook and noted that he has a strong preference to follow the recommendations of the Planning Commission on land use matters.

Reid stated they have a very strong Planning Commission and since they have learned from past mistakes and now received this training, they will be more professional in the future.

**VIII. OLD BUSINESS**

**A. Special Assessment Policy**

Crosby reviewed that the Council had discussed the Special Assessment Policy at several meetings and it was the subject of discussion at tonight's Workshop. The Policy is now in final form. He explained that it is an important Policy so it will be publicized in the City's next newsletter and posted on the webpage that the Council will consider it at the February 17, 2009 meeting. The Policy will be available for review at City Hall and on the web page.

Crosby stated a public hearing is not required since this is a Policy but he would entertain public input. None was offered.

*Moved by Weir, seconded by Smith, to table consideration of the Special Assessment Policy, to the February 17, 2009 meeting. **Motion passed unanimously.***

**IX. NEW BUSINESS**

**A. Local Zoning Regulations and Religious Land Use and Institutionalized Person Act**

Adams referenced the two staff memos from Attorney Batty and Associate Planner Finke that outlined regulations, provided comparisons, and presented a menu of discussion points. He explained the main point of discussion is what the Council wants the Planning Commission to look at and focus on during their February meeting.

Batty reviewed that two meetings ago, there had been a relatively brief discussion during which several Council Members had expressed concern about the way Medina regulated churches. In talking with staff, it had been indicated that other comments had been made during Comprehensive Plan review meetings and several other times. Batty asked the Council to discuss what it sees as the problem, what it wants to fix regarding church regulations, and how quickly it wants this accomplished. He noted that consideration of the church ordinance was towards the bottom of the task list but it appeared the Council wanted it considered further up on the agenda. Batty explained that before staff can craft an ordinance amendment, it would be helpful to hear what issues the Council wants addressed.

Weir stated a desire to keep churches smaller and community-based if located in residential areas.

Crosby noted that historically, in zoning codes, churches have been relatively easily permitted in residential districts since they were churches to communities, located within walking distance, and provided limited services on Sunday and religious holidays. However, now churches do not have as much of a local connection to the community. A church may have moved from a location that it outgrew and brought a congregation initially that was not associated with the community. Also, churches now offer legitimate but peripheral services (nursery schools, Alcoholics Anonymous, young adult groups, Wednesday services) creating a fuller use approaching a community meeting hall or commercial meeting hall standard. Crosby stated that more review is needed for intensive uses in residential areas. Crosby explained that because church land is taken off tax rolls it is becoming more accepted to ask such institutions to pay fees in lieu of real estate taxes, which Medina needs to consider since police, fire, and other municipal services are being provided.

Smith stated many churches have become a business rather than a small local church. She believed that churches should be limited if located in residential areas, noting the City places a lot of restrictions on accessory buildings that residents have requested. Smith stated she is concerned about the size of churches because with size comes higher numbers of vehicles and activities that are more similar to a commercial venue. Also, some churches have parking lots that are larger than Medina Ballroom's parking lot. Smith stated concern that the City's building and safety standards are not sufficient based on the mass of people using such a church facility, which should be similar to that of commercial buildings. Smith stated residents have complained about the higher level of traffic and speeding that larger churches create, which is not appropriate in a residential area.

Batty asked if it is a concern with Building Code issues or exterior aesthetic issues required in commercial districts. Smith stated it is a concern with both.

Crosby stated the other concern is that most of the larger churches are located in non-sewered areas so there is a risk of a failing system. Smith agreed that is a critical issue.

Crosby stated the legal issue is how Medina can deal with the changing nature of churches within a historic pattern that may not fit any more.

Batty stated his memo was legalistic in nature because he wanted to make the point that it is a rare case when dealing with Federal rather than State law. This Federal law has

only been in existence for eight years but generated a lot of legal action. Unfortunately, there is not much existing case law in Minnesota that is very helpful. Batty stated his memo ends with overriding principles and he would like to use those to guide when crafting ordinance amendment language. He noted the strain in the legal cases that indicates if it is done by a religious institution it can be done anywhere, any time, and any place. However, he does not advocate subscribing to that line of reasoning. Batty stated he would advocate taking a position to apply broad standards that cover not only churches but also similar institutions. He stated some have suggested that relatively smaller churches be permitted in residential districts but when they reach a certain threshold, (size/accessory uses) they need to find another district with similar uses. He noted some of the buildings are of a size and generate high levels of traffic that are more similar to commercial and industrial uses than to residential uses. Batty stated those rational distinctions can be made and churches can be put into categories where they are considered with similar secular uses.

Weir stated having larger churches on the sewer system is a compelling rationale. However, if a church starts small but is located on a large parcel, how could the City limit the potential for growth?

Crosby stated the maximum size of the sanctuary could be restricted in the CUP. Smith stated size has been restricted on churches, like the one on County Road 24, but the church was still increased in size. Crosby stated he represents a church in another community and that city put a restriction on the sanctuary size, which impacted the amount of traffic and traffic control needed.

Weir noted that even with a restriction on the sanctuary size, the church could still add services such as a nursery or school, which would add traffic.

Batty stated it is possible to allow churches of different types in a broad range of zoning districts. Crosby asked how they can be distinguished. Batty advised of the areas that will need to be reviewed and revised including the definition of church, description of districts in which they are permitted, and standards that are applicable in residential districts, as recommended by the Associate Planner.

Crosby stated Medina wants the same restrictions on public and private schools that would be placed on large institutions with the same issues. Batty agreed the regulation should be on similar uses that have the same concerns with traffic, sewer connection, etc. He noted that allowing churches in a number of zoning districts may be different than what the Comprehensive Plan considered for the Public/Semi Public District. He stated the idea, at one point, was that properties guided Public/Semi Public District would contain uses guided to that District.

Crosby stated churches could be allowed where business parks are allowed. Batty agreed that is appropriate from a land use standpoint.

Weir noted the Comprehensive Plan is out for review so it is not too late to change it.

Batty asked when the Council wants to deal with this issue, which will involve the amendment of a number of ordinances.

Crosby questioned why Uptown Hamel churches are exempt from things like outdoor storage, loudspeakers, etc. Batty explained that Medina just approved revised standards for Uptown Hamel and these standards were in that revision. However, religious institutions were not widely debated during that discussion. He agreed it would be appropriate for churches to be subject to the same list of standards.

Weir expressed concern about creating nonconformity.

Smith was concerned with allowing 50% hardcover for the sites in Rural Residential and suggested the regulations for runoff be stated. Weir noted those regulations are stated in the Storm Water Pollution Prevention Program. It was noted another concern would be density. Smith stated these issues will not be settled soon so she would support a moratorium to allow time to draft the ordinance amendments.

Batty stated he has received enough direction from the Council tonight and suggested staff be allowed to draft ordinance amendments to address those issues.

Crosby asked if a moratorium is appropriate given the scope of these amendments. Batty asked what the Council wants to focus on, only new churches or existing churches wanting an amendment.

Smith stated both should be addressed. Crosby concurred and stated it should also address expansion of existing churches.

Batty advised that Woodridge Church has resubmitted their application to be heard by the Planning Commission in February. That application will be before the Council at its first meeting in March. Woodridge's application deadline now runs until May. Batty explained the Council could try to get an ordinance through Planning Commission and Council considerations and into effect before that application came back (May of 2009) or the Council could impose a moratorium to give even more time, up to one year, to review these issues.

Adams stated if the Woodridge application is tabled, the ordinance amendments can be considered by the Planning Commission and at two Council meetings prior to April.

Smith asked if this is fair to the applicant since the ordinance amendments may make their application not valid. Batty stated the applicant can be told that changes are being considered, whether via a moratorium or an ordinance amendment process.

Crosby stated support for a moratorium since there has been a lot of discussion that the rules and regulations are not truly suited for churches, such as the church on Willow Drive. Batty noted the moratorium can be lifted if the ordinance amendments occur expeditiously.

*Moved by Smith, seconded by Weir, to direct staff to prepare an interim one-year moratorium ordinance for new and existing churches, which will be considered at the next Council meeting and would go into effect immediately upon adoption. **Motion passed unanimously.***

#### **B. 2009 Appointments and Designations**

Adams presented the summary report with recommended appointments.

*Moved by Weir, seconded by Siitari, to appoint Mike Johnson as Medina's representative to the Lake Minnetonka Communication Commission and Mayor Crosby and Judy Press-Brenner as alternates, and appoint Dusty Finke as Zoning Administrator in replace of Tim Benetti. **Motion passed unanimously.***

**C. City of Plymouth Request for Functional Classification Change to Plymouth 54<sup>th</sup> Avenue**

Adams presented the request from the City of Plymouth for Medina to support their functional classification change of their 54<sup>th</sup> Avenue to the Metropolitan Council. He referenced a map that identified the roadways and functional classification.

Kellogg stated the final alignment has not yet been determined but last year Plymouth indicated they would talk with Hennepin County and the alignment is planned to be just south of the Highway 101 overpass. Adams explained the connection would be in Medina, north of the curve, and stated language reflecting the impact on the CSAH 101/TH55 intersection would be noted.

*Moved by Weir, seconded by Siitari, to support Plymouth's functional classification change of 54<sup>th</sup> Avenue from a Minor Collector to a Major Collector with City Engineer comments as submitted and additional CSAH 101/TH55 comment. **Motion passed unanimously.***

**X. CITY ADMINISTRATOR REPORT**

**A. City Development Fee Analysis Report**

Adams stated this was discussed at the worksession earlier tonight and the Council decided to direct staff to look at what TIF can be used for and options other than subsidizing fees. This will be on a subsequent agenda in February as it relates to the TIF cash flow analysis.

Crosby explained this is in reaction to an applicant's request for reduced sewer and water connections for a new restaurant.

**XI. MAYOR & CITY COUNCIL REPORTS**

Weir reported that at the Elm Creek Watershed District meeting, it was indicated that Medina's Local Surface Water Management Plan was one of several they did not approve. Kellogg stated he was not aware of that. Adams stated many Watershed Districts send their comments to Bonestroo but he is not aware of any substantive comments up to this point.

Smith reported that at last week's Northwest League of Cities meeting, a speaker from the League of Minnesota cities addressed the dire condition of the State's finances and indicated the first quarter budget shortfall may be seven times worse than first forecast due to loss of revenue from sales tax, decreasing value of property and taxes, etc. The speaker also indicated that in May, the Legislature left indicating they had balanced the budget by taking \$500 million from the reserve fund. However, the Legislature actually knew the budget was \$950 million short, or a \$450 million deficit. The speaker felt there was not just one way to solve the budget shortfall by cutting budgets, or raising taxes, or

delaying expenditures. He believed the State needed to completely restructure how things are funded so the State does not have to keep going through this.

Smith reported the Northwest League of Cities may hold a workshop on conservation design so cities will not have to go through the same process to create an ordinance.

Crosby stated he and Adams had attended the Northwest I-94 Chamber State of the Cities, which was attended by representatives from Medina, Corcoran and Hanover. However, representatives were not present from Plymouth, Greenfield or Loretto.

Crosby advised that he and Adams have prepared a list of item to discuss with the Mayors of adjacent communities. He also plans to meet with Medina businesses.

Crosby stated he will review the front page newsletter article advising residents of the City's transparency in government. Adams described the information to be included.

**XII. APPROVAL TO PAY THE BILLS**

*Moved by Smith, seconded by Weir, to approve the bills, EFT 000379-000389 for \$29,185.61 and order check numbers 033479-033575 for \$1,354,255.92 and payroll checks 020193-020194 for \$421.74 and EFT 501776-501807 for \$45,652.49. **Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Smith, seconded by Weir, to adjourn the meeting at 8:12 p.m. **Motion passed unanimously.***

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T.M. Crosby, Jr., Mayor

Attest:

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Chad M. Adams, City Administrator-Clerk