

MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 5, 2009

The City Council of Medina, Minnesota met in regular session on August 5, 2009 at 7:05 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

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

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Police Chief Ed Belland, City Planner Dusty Finke, Public Works Superintendent Steve Scherer, Finance Director Jeanne Day, Assistant to City Administrator Jodi Gallup and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

It was requested to add item 8D, discussion regarding a position change from exempt to non-exempt employee for Dusty Finke.

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

IV. APPROVAL OF MINUTES

A. Approval of the July 21, 2009 Special City Council Meeting Minutes

*Moved by Smith, seconded by Weir, to approve the July 21, 2009 Special City Council meeting minutes as amended. **Motion passed unanimously.***

B. Approval of the July 21, 2009 Regular City Council Meeting Minutes

It was noted on page one, under roll call, Jason Nelson was listed as present when he was not present at the meeting. On page four, line 17, it should state, "...She questioned if the building fire access road would need to be..." On page five, line 39, it should state, "...City would be able to operate the facility perpetually or close it to new sales." On page eight, line 10 through 13, it should state, "Johnson did not know believe..." "...being treated differently, in an ad hoc manner..." "He thought the Council should either move forward consistent with the terms of the policy, or..." On page eight, line 39, it should state, "...they would need to pay 100 percent of the internal road improvement cost, to provide access to the collector road." On page nine, lines two and three, it should state, "Weir thought the Council should move ahead with 25 22 or 23 percent..." On page 11, line 13, it should state, "...to not purchase hardware the electrical breaker switch at this time..." On page 11, line 22, it should state, "Johnson did not think that the Council should consider move forward on a project that far over budget without addressing the gap in funding." On page 14, line 30, it should state, "...with this plan. He stated that at present time his preference is to add capacity, addressing demand, through the hiring of temporary specialists to perform needed tasks."

*Moved by Weir, seconded by Johnson, to approve the July 21, 2009 Regular City Council meeting minutes as amended. **Motion passed unanimously.***

C. Approval of the July 23, 2009 Special City Council Meeting Minutes

*Moved by Weir, seconded by Smith, to approve the July 23, 2009 Special City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

- ~~A. Approve Fireworks Agreement with Hollywood Pyrotechnics, Inc.~~
- ~~B. Approve Temporary Liquor License for Hamel Lions on September 18-20 & 26, 2009~~
- ~~C. Approve Ball Field Use Agreement with Hamel Lions for September 12-20, 2009~~
- ~~D. Approve First Amendment to Tennis Court Rental Agreement with Carrie Agre~~
- ~~E. Approve Southwest Assessing Services Agreement~~
- ~~F. Approve Brush Grinding Services Agreement with Stockman Transfer, Inc.~~
- ~~G. Approve Street Striping Agreement with Twin Cities Striping, Inc.~~
- ~~H. Approve Intersection Striping Agreement with Paint-A-Lot~~
- ~~I. Approve Part Time Associate Planner Job Description~~
- ~~J. Release Letter of Credit for Willow Hill Preserve Site Improvements~~
- ~~K. Resolution Accepting Resignation of Community Service Officer Josh McKinley~~
- ~~L. Resolution Approving Off-Site Gambling Permit to Hamel Lions at 3200 Mill Drive~~
- ~~M. Resolution Granting Conditional Use Permit Approval to the City of Medina for a Concession Building and Storage Building in Hamel Legion Park at 3200 Mill Drive~~

Johnson asked to remove item J from the consent agenda. Weir and Crosby asked to remove item A from the consent agenda. Crosby asked to remove item I from the consent agenda.

*Moved by Smith, seconded by Weir, to approve consent agenda items B-H and K-M. **Motion passed unanimously.***

A. Approve Fireworks Agreement with Hollywood Pyrotechnics, Inc.

Weir questioned if the City really wanted to spend \$4,000 on fireworks with the economy in the current state. She thought perhaps a less costly display should be chosen.

Crosby did not think the description of what was going to be done was adequate. He suggested having the ability to cancel the event with a cancelation cost of \$1,000 in lieu of an alternative rain date.

Johnson suggested having a 12-month rescheduling option in the case of a rain day.

Crosby questioned how many people attended the fireworks and how long the display usually ran.

Police Chief Ed Belland reported that about 200 or 300 people attend the fireworks and the display would run for about 20 minutes.

Crosby suggested adding the option of a 13-month extension if rain should occur. He also wanted better specifications for the fireworks event and other cost options. He did not want to move this item tonight.

Weir suggested going with this option for the present year and investigating further options for the future, as this item had already been included in the budget.

Gallup confirmed that the funds were available in the budget for the event this year. She stated that she would further research the options and bring the item back for the Council at the next meeting.

I. Approve Part Time Associate Planner Job Description

Crosby stated that he was surprised, as he thought that this position was being hired for a specific task. He thought that the job description should make it clear that the position would mainly be responsible for the writing of ordinances.

Smith agreed that the description might be long winded.

Gallup stated that Adams wanted to ensure that a qualified individual would be hired.

Smith was concerned that the job description did not focus on the main aspect of the position, which would be writing ordinances.

Crosby thought that the primary objective of the position should be listed first with the current first paragraph being displayed under that listing. He suggested putting the other aspects of the job under the heading, Other Duties.

*Moved by Smith, seconded by Weir, to approve the part time associate planner job description, with the suggested changes. **Motion passed unanimously.***

J. Release Letter of Credit for Willow Hill Preserve Site Improvements

Johnson questioned if the letter of credit was for site improvements, including landscaping. He stated that several of the trees on site had died due to lack of watering.

Kellogg advised that the developer did agree to replace those trees.

Johnson stated that it was great that the trees were being replaced, but thought that the release of the letter of credit should be postponed until that occurs.

Weir thought that the costs for the City to water the trees should be paid by the developer.

Smith suggested not releasing the letter of credit until their landscaping is established. She also suggested the use of bags for assisting in the watering the trees.

VI. PRESENTATION

A. Lake Minnetonka Communications Commission Presentation

- 1. Resolution to Support the Lake Minnetonka Communications Commission in its Application for Federal Stimulus Funding for Construction of a Fiber-to-the-Home Network**

Sally Koenecke explained that about one year and six months ago the Commission formed a Committee to research fibers. She explained that some of the residents, including those in Medina, are unable to receive broadband services through the incoming cable provider. The Committee studied what would be involved in a municipal fiber system. She explained that this would be fiber optics run through the street to provide services to the community. It had been determined in the past that wireless internet would not be a feasible option. She advised that a number of commissioners had traveled to cities throughout the United States to study similar setups. She advised of a few surrounding cities that were installing a similar fiber system. She stated that only one bid was received because of the low population and the lake community. She advised that the government has come out with a stimulus grant program, which allocates money to build broadband projects. She advised that the Committee is attempting to apply for a \$47,000,000 grant from the government, which would be an 80/20 grant to City match.

Johnson explained that this would be 80 percent funded by the grant and 20 percent would be the responsibility of the City.

Koenecke clarified that 80 percent would be grant funded, \$47,000,000, out of the total project cost of \$60,000,000. The remaining would be paid for with revenue bonds with no City obligation.

Crosby questioned if the taxpayers of Medina would need to pay that through a LMCC line in the tax portion of the bill.

Koenecke stated that residents would not need to pay it back but users of the system would be assessed a fee to pay that back.

Weir questioned if residents with long driveways would need to pay for the connection from the road.

Koenecke advised that the connection would be brought from the road, down their driveways. She stated that has been the problem thus far in that the current company is asking residents to pay a portion of the costs to come down their driveway.

Crosby thought that ultimately the main issue the Council needed to determine was whether the City or the taxpayers of the City would have an obligation.

Smith questioned if residents would be required to hook-up if service is brought to their home.

Koenecke confirmed that hook-up would be voluntary. She stated that the grant rules were released on July 1, 2009, and the population criteria were too high for this area in this round. She advised that the Committee has chosen to hold off on the grant to see if the criteria are better fitting for the community in the second round of the grant. She explained that the City passing the resolution in support, at this point, would give them access to the right-of-way and they would be able to move forward more quickly should the future criteria fit.

Johnson questioned who would own the system once installed.

Koenecke stated that she thought that it would be City owned.

*Moved by Weir, seconded by Johnson, to approve a resolution to support the Lake Minnetonka Communications Commission in its application for federal stimulus funding for construction of a fiber-to-the home network. **Motion passed unanimously.***

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Park Commissioner Madeleine Linck stated that only two events had taken place since the prior Council meeting. She reported that the Sub-Committee for the Hamel Legion Park Master Plan had met yesterday to review the plans to this point. She stated that the next meeting would be an open house on August 19th. She advised that the Commission “hit a snag” in regard to the proposed park signs and the City sign ordinance. The Commission did not reach an agreement as amendments to the sign ordinance would need to be made in order to use a pylon type sign.

Smith stated that staff is looking to other cities and the signs used in their parks for other options. She advised that the Commission would be better prepared at the next meeting after the additional information is gathered and reviewed.

Weir thought that a pylon sign was different than a park sign, and wanted language to distinguish a post sign from a pylon sign in the ordinance.

C. Planning Commission

Planning Commissioner Beth Nielsen advised that the CUP from Woodridge would be reviewed along with the review of the pylon sign ordinance at the next meeting. She reported that the CUP from Woodridge was the same as submitted in January.

Finke explained the application process and extension requested. He advised that the City has given the Church notice that they would need to make changes.

Johnson questioned if any update had been received in regard to the software engineering firm parcel.

Finke stated that the City had not yet heard any information from the property owner. He advised that staff had also spoken recently with a representative from a company regarding another parcel.

Johnson advised that another similar sounding software company just purchased another piece of land in another community.

Finke stated that staff will continue with the September review of the Business Parking zoning regulations by the Planning Commission.

VIII. NEW BUSINESS

A. Hamel Legion Park Field House

1. **Approve Construction Bid Documents; Authorize Advertisement for Bid**

Tim McIlwain, with HCM, was present to review the plans with the Council. He stated that he would like to go out to bid by Monday, with a two-week bid process, which would allow them to bring the bid back to the Council and to also stay on track with the schedule. He reported that the Fire Marshal did allow the access way to be reduced to 20 feet with a small hammerhead at the end. He advised that money to move three trees would be included in the bid. He displayed the site plan with detailed elevations for the buildings. He noted that the buildings maintained the look and materials discussed at the previous Council meeting. He advised that recently, most projects were coming in at 25 to 38 percent under the budgeted cost. He explained that a portion of the project would be listed as an alternate so that the Council would have the ability to choose whether or not to proceed at this time with that building.

Crosby questioned if the facilities would be drained in the winter.

McIlwain confirmed that the system would be drained and completely blown out before winter. He described the lighting fixtures, storage areas, scorekeeper's balcony, and the kitchen components of the concession stand. He summarized the parking changes and curb cuts that would be included.

*Moved by Smith, seconded by Weir, to approve the plans and specifications for the field house project and authorize staff to advertise for bids. **Motion passed unanimously.***

2. **Project Budget**

The Council agreed that there was a priority to fund the project from the park dedication fund and that the final decision would come after the bids were received, as discussed at the July 23rd meeting.

3. **Operating Budget**

Day advised that the City entered into a concession services agreement with the Hamel Lions to determine the current demand. She is working with information provided through July 18th from the Lions. She had concerns that payroll related taxes and workers compensation were not included and instead the Lions listed employees as contract employees. She advised that the City would treat this type of employee as a temporary employee.

Batty confirmed that the employees would be treated as part time employees and not independent contractors.

Day advised that with the service agreement the City currently has with Hamel Lions, it is their responsibility to take out these taxes and document as such.

Smith thought that the intent of this was to determine if someone else could manage this building. She understood that the City has a contract that calls this out but she did not think it was worth the time of the Council to review that. She stated that the bottom line was in the manner that the Hamel Lions were running this it would not make it. Smith stated that it was obvious that a lot of profit would not be made at this time. She thought the important thing was that they did not want City staff managing this. She thought the real issue was recognizing that there would be some costs to the facility, such as insurance and utilities.

Weir stated that since it is a City owned building the City should pay the insurance and utilities.

Day was concerned with inventory discrepancies and sales tax not being deducted. Staff thought that an additional \$10,000 would be needed for expenditures. She stated that although they would like to build now to maximize possible low bids, if the bids do come in over they could do a partial build or build now and postpone operations.

Crosby wanted to see a traditional profit loss analysis, including the points addressed. He stated that they are attempting to determine what the possible revenue would be once the concession stand and bathrooms are opened.

Gallup advised that the athletic association is finished with their use of the fields but the concession agreement runs through October and gives the Hamel Lions the first opportunity to provide concessions to events that occur until that time, including tournaments.

Smith quoted from the minutes of the February, 2009 City Council meeting, explaining that the City would look at the concession agreement to offset the cost of operations, not fully fund it.

Day advised that although this year, a temporary concession stand did not draw additional tournaments, a permanent facility could draw additional tournaments.

Johnson questioned if the City would have any liability in the case that the people in the agreement do not comply with the stipulations.

Day believed that the business would be liable.

Crosby questioned if the City could enter into an agreement with a group, such as the Lions, with the stipulations that they follow the FICA regulations and such. He thought that the Council would need a business plan with the associated costs and revenues.

Johnson thought that it would be logical to assume that the rental of the fields would increase in value because of the added amenities. He explained that this is not just a concession stand; restrooms and storage are also provided.

Crosby stated that he would be happy to work with City staff to determine a more standard profit and loss comparison.

Day advised that the field costs were not included because the rental amount covered the cost of mowing and other field maintenance.

Johnson did not think that anyone was against the project; they just wanted to know what they were getting into.

Day advised that the shortfall was estimated at \$10,000 and explained that the Council would need to determine which revenue source they would like to use to cover that shortfall for the 2010 budget year, such as lease arrangements, or additional usage revenues.

Johnson requested further information be gathered.

Day asked for further clarification in regard to the budget meeting later in the month.

Johnson did not think it was fair to include the total costs regarding the building of the concession stand, as bathrooms and storage were also a part of the project.

Crosby explained that the expenses would need to be included in the budget.

Day explained that expenditures were already reduced by Council direction in regard to lowering the levy. She stated that she would then need to add an additional \$10,000 for this project and questioned where the Council would like her to cut that amount.

Crosby stated that a balanced budget would not need to be presented at the meeting later this month and explained that she could instead give options for balancing the budget, such as raising the levy. He was concerned that the insurance costs were estimated at \$4,000.

Day explained that she called the City's current insurance company and that is the amount she was given. She was unsure that she would be able to obtain a more detailed operating budget and costs as the Lions had told her they did not have the time to put that together.

Crosby recessed the meeting at 8:55 p.m. Crosby reconvened the meeting at 9:03 p.m.

C. County Road 116 Trail

1. **Approve Plans and Specifications; Authorize Advertisement for Bid**
2. **Approve Trail Agreement with Paul J. Dombeck**
3. **Approve Trail Agreement with Donald J. Nielson and Delores Nielson**
4. **Approve Trail Agreement with William Kroll, Medina Group, LLC**

Scherer advised that many homeowners were interested in the trail and willing to donate property for the project. He advised that there were three outstanding agreements, including the Dombecks and Nielsons. He recommended approval of the agreements along with plans and specifications.

Crosby stated that the City would be paying \$1.72 per square foot of property for those that are not donating the property.

Scherer stated that the property owners were more than happy to sell the land to the City but just had requests because of the inconvenience. He confirmed that a monetary value was set to their donations so those who donated their land may be able to deduct the donation from their taxes.

Smith thought that the City should publicly acknowledge and thank those that donate their property for the project and thought perhaps it would encourage others in the City as well.

Kellogg stated that the action tonight would be to approve the plans and specifications to go out for bids and move forward on the project. He stated that this process has been

ongoing for more than two years. He advised of the different options and that Hennepin County would contribute \$150,000 towards the project. He reviewed the time schedule for the project should the Council approve the plans and specifications and authorize staff to go out for bids tonight.

*Moved by Johnson, seconded by Smith, to approve the plans and specs for the CR116 trail project and authorize staff to advertise for bids. **Motion passed unanimously.***

*Moved by Johnson, seconded by Smith, to approve the trail agreements with Paul Dombeck, Donald and Delores Nielson, and William Kroll-Medina Group, LLC. **Motion passed unanimously.***

D. Ordinance Creating the Residential-Single Family, Residential-Two Family, Residential-Mid Density, Residential-Limited Multiple Family, and Residential-Multiple Family Zoning Districts; Adding New Sections 840 and 841

This item was moved to the end of the agenda.

E. The Exempt Status of the City Planner Position

Crosby stated that presently Finke is a non-exempt employee and, under this program, would as of August 1, 2009 change to an exempt employee. He thought that the pay increase should be retroactive, should Finke complete the probation period.

Day advised that Finke is receiving a pay increase, as of August 1, 2009, which would be comparable to his hourly rate with overtime.

X. STAFF REPORT

None.

XI. MAYOR & CITY COUNCIL REPORTS

Crosby reviewed the upcoming meeting schedule.

Weir stated that she received a call from Pete Schmidt in regard to the painting that was placed on the back of the library. She acknowledged the initiative of Pete Schmidt and his offer to pay for the cost, although she believed that Uptown Hamel would be covering the cost of that project.

Smith thought that something additional could be done with the plantings. She questioned if the Council should send a thank you to Mr. Schmidt for his initiative.

Crosby thought there was diplomatic confusion on who is or is not included in Uptown Hamel, although he did not know that it was the place of the City to get involved.

Weir stated that she had brought the idea up as to whether the Uptown Hamel area could be expanded but did not think the notion was openly accepted.

Johnson questioned the status of the farmer's market at the Medina Ballroom.

Gallup had not heard if it would occur this year. She mentioned that Gregor Farms had a tent in the corner of the Medina Entertainment Center's parking lot in the months of May and June.

Smith thought that farmers selling produce could be mentioned in the City newsletter.

Smith advised she spoke with a woman who believed that she should be given credit for paying a higher sewer bill prior to having a meter installed. She felt that the City had given sufficient notice and did not feel that the resident deserved further compensation.

Crosby stated that the ability to meter separately was an option and the obligation would stand.

Day stated the City indicated that in lieu of giving credit on an individual basis, the City would look at a reduced storm water fee in the 2010 year, which would benefit all residents.

XII. APPROVAL TO PAY THE BILLS

*Moved by Johnson, seconded by Weir, to approve the bills, EFT 000523-000532 for \$29,391.34 and order check numbers 034316-034360 for \$284,529.49 and payroll check 020208 for \$512.09 and EFT 502184-502210 for \$42,674.60. **Motion passed unanimously.***

VIII. NEW BUSINESS - continued

C. Ordinance Creating the Residential-Single Family, Residential-Two Family, Residential-Mid Density, Residential-Limited Multiple Family, and Residential-Multiple Family Zoning Districts; Adding New Sections 840 and 841

Finke requested further direction regarding building height. He was unsure if the Council had a consensus of the height.

Crosby stated that he would approve 30 feet, with the exception to go to 35 feet with sprinkling and/or additional setbacks.

Finke moved to design and development standards in the R-1 and R-2 districts. He discussed garage door frontages and the current three-car garage limitations.

Crosby stated that he had recently seen a number of attractive three-car garages and supported allowing a three-car garage. However, he was unsure how you could use language and ordinances to prevent poor taste.

Smith stated that she would like to encourage, rather than require, some architectural elements.

Finke confirmed that the Council was in favor of removing the garage door frontage requirement in lieu of added language and suggested architectural elements. He stated that one of the more repetitive issues brought up in the open house was buffer yards and suggested an index of opacity. He explained that these numbers are fairly high compared to other cities.

Smith stated that she was in favor of the graphics provided with the Chanhassen information. She was unsure if the numbers would align with pictures but thought that a picture may be easier to understand.

Weir questioned if you would need buffered yards between different densities in the same subdivision.

Finke explained that in this ordinance you would not, as the buffered yards would deal with the border of the development.

Smith thought that some screening should be provided between densities.

Crosby stated the basic concept would be that an owner could basically do what they wanted within the perimeter but would need to buffer along the perimeter.

Finke advised that within the development there is landscaping for individual lots such as two front yard trees, and the establishment of lawn.

Weir stated that she did a little research on different types of grass and thought that additional incentive should be made for grass that requires low amounts of water.

Finke moved onto the other districts, R-3, R-4, R-5, and summarized the design and development standards for those districts. He reviewed suggested changes to building materials, garage door frontage, building modulation and articulation, and enclosed parking.

It was the consensus of the Council to remove windows as an accent material and reduce the percentage required for accent materials facing the street.

Finke explained the other proposed changes for the districts in regard to design and development standards. The Council was in favor of the staff suggested changes. He summarized the recommendations from the Planning Commission.

Smith thought that Cherry Hill was a nice development. She was in favor of adding more affordable housing in the City, such as \$300,000 or \$400,000.

Johnson was unsure how to lower or moderate housing would be possible in certain zones with the lot sizes.

Crosby was also in favor of the side setback discussed by Smith.

Finke suggested a reduced rear setback when the parcel backs to an open space, such as 10 feet rather than 30 feet. He advised that the proposed front setback in some districts would be 25 feet.

Weir was concerned with being able to gain the higher density in areas and where children would be able to play. She favored more strict language in regard to burying utilities, as she did not think that there were many cases when it would not be possible.

Finke stated that he would add additional flexibility where possible and directed by Council.

Crosby stated that although Medina may be leaders in some things he did not want to be the strictest in terms of regulations. He questioned if further information could be provided on bonus incentives. Crosby thought that other resource related items should be reviewed in regard to incentives, such as landscaping related items.

Johnson stated that developers always complain and want it to be easier than required because it encroaches on their profits. He stated that if the City sets high standards, the community will be better for it.

Smith questioned if better landscaping elements could be encouraged.

Crosby questioned whether people would want more or less density in Medina. He was not sure that developers were actually looking for more units as incentive.

Finke stated that staff would look into the option of other bonus incentives rather than simply density.

Johnson stated that from a water quality perspective, the City is encouraged to set aside buffers around wetlands to promote water quality, which then lowers from density. He thought that should be discussed in regard to the comprehensive plan.

XIII. ADJOURN

*Moved by Johnson, seconded by Weir, to adjourn the meeting at 10:15 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Jodi Gallup, Assistant to City Administrator