

MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 17, 2017

The City Council of Medina, Minnesota met in regular session on January 17, 2017 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

I. ROLL CALL

Members present: Cousineau, Pederson, and Mitchell.

Members absent: Anderson and Martin.

Also present: City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Jim Stremel, City Planner Dusty Finke, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, and Chief of Police Ed Belland.

II. PLEDGE OF ALLEGIANCE (7:00 p.m.)

III. ADDITIONS TO THE AGENDA (7:00 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:00 p.m.)

A. Approval of the January 3, 2017 Regular City Council Meeting Minutes

It was noted on page three, line 23, it should state, "He noted the substantial reduction in residential development from the previous draft of the Comprehensive Plan, to better match the reduction that was made in the system statements from the Metropolitan Council what the City has planned for 10 years ago within the existing Comprehensive Plan." On page six, line three, it should state, "...previous plan. She stated this seemed to be an advocacy piece."

*Moved by Cousineau, seconded by Pederson, to approve the January 3, 2017 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA (7:02 p.m.)

A. Appoint Elizabeth Weir to the Medina Park Commission

B. Approve Amended and Restated Grounds Services Agreement with the Hamel Athletic Club

C. Resolution 2017-04 Accepting Resignation of Amanda Staple

Johnson stated that staff appreciates the new leadership and working relationship with the Hamel Athletic Club. He also thanked Amanda Staple for her service.

*Moved by Pederson, seconded by Cousineau, to approve the consent agenda. **Motion passed unanimously.***

VI. PRESENTATIONS (7:03 p.m.)

A. Senator David Osmek

Senator David Osmek stated that he is open to any comments the Council may have. He stated that the legislative session has started, and after the elections he is now in the majority. He stated that he is the Chair of the Energy and Utilities Committee and

provided a brief overview of the items the Committee will be reviewing, including the renewable development fund. He stated that he will also serve again on the Transportation Committee and Local Government Committee. He noted that he is able to provide a different perspective as he is the only Committee member that has also been a City Council member under the Metropolitan Council. He stated that he is also a member of the Capital Investment Committee. He stated that Highway 12 continues to be a priority for this district and explained the process for obtaining funds for improving other highways in the district.

Cousineau stated that this area continues to have problems with power outages.

Senator Osmek stated that he will remind the group that the problem still exists.

Mitchell stated that there was a changing in the guard both on the state and national levels, while the City Council has remained the same. He hoped that the legislature would have the same good fortune to manage the state in a reasonable and effective manner.

Senator Osmek agreed noting that he would like to focus on the budgets, get things done, and finish the job.

VII. COMMENTS (7:13 p.m.)

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Scherer reported that the Park Commission will meet the following night to consider park dedication for the Wally Marx concept plan, park dedication review of the Ellis and Nancy Olkon plat request, review the parks and trails plan, and discuss goal setting.

C. Planning Commission

Planning Commissioner Murrin stated that the Planning Commission met the previous week and appointed Janet White as Chair and Todd Albers as Vice Chair. She stated that the Commission held three public hearings, the first to review the Concept Design PUD for Wally Marx and was supportive. She stated that the Commission supported the applicant keeping the location of lot three the same to preserve the garden. She stated that the Commission also supported the preserved land being maintained in the same high quality that Mr. Marx has. She stated that the Commission also held a hearing for Woodridge Church and recommended approval. She stated that the Commission held a public hearing on the Olkon request and recommended unanimous denial, noting the discrepancy in the proposed lot sizes under the suitable soils requirement in the rural residential zoning district. She stated that the applicant asked if the plat could simply be done but explained that the plat would then create two buildable lots which is not possible under the suitable soils requirement.

VIII. NEW BUSINESS

A. Woodridge Church Expansion – 1500 County Road 24 (7:17 p.m.)

Sparks noted that this action would require six approvals in order to allow for the expansion requested by Woodridge Church. He explained that the purpose of the

addition is to add some classroom space as well as lobby and restroom areas to the church. He provided background information on the agreement that was reached in the past regarding potential expansion. He explained the different actions which would be needed for the expansion including a lot combination that would require rezoning and a Comprehensive Plan Amendment of the residential site that is required to be combined under the agreement. He stated that in 2013 approvals were given to allow the church to come back for the expansion request that meet the items within the agreement. He provided additional details on the lot combination and the Interim Use Permit that would allow the existing home to remain on the site for a set amount of time. He noted potential turn lanes that could be required upon further expansion in the future, should the church build out to full capacity. He provided additional details on the proposed expansion of classrooms, restrooms, and lobby space. He explained how the capacity numbers are determined. He reviewed the parking regulations and how that is calculated.

Mitchell asked if there is additional space available for future parking if that is needed under the agreement.

Sparks replied that the church does have sufficient space for additional parking, should that be necessary, under the agreement. He reviewed the six actions that would be needed for this request including the lot combination, Comprehensive Plan amendment, rezoning, Interim Use Permit, Site Plan review, and Conditional Use Permit. He stated that the Planning Commission held a public hearing and recommended approval subject to the conditions noted in that staff report. He highlighted the language regarding parking and the location of a secondary septic site.

Pederson asked and received confirmation that the church owns the home and will continue to own the home on the residential lot. He referenced the grade of the property and seven feet of right-of-way requirement and asked for additional clarification.

Sparks explained that Hennepin County has seven feet of right-of-way in some spots but not others and therefore that condition will equal out the right-of-way provided. He explained that if the turn lanes are required there would be additional right-of-way required.

Pederson asked if the County would sign that roadway as no parking.

Sparks stated that he was unsure if the County would sign no parking but noted that the City would have the authority under the CUP that parking is not allowed and could enforce that item through that aspect.

Mitchell agreed that he would also prefer a belt and suspenders approach, with the control through the CUP and the County signing the roadway as no parking in that area.

Pederson asked for details regarding the septic systems.

Sparks identified the current septic components. He confirmed that additional information will be provided regarding the septic.

Cousineau disclosed that she is a member of the church and has discussed that with Batty. She asked for additional information on the secondary septic location.

Mitchell explained that the secondary septic site is a safety factor that would only be needed in the case that the primary site fails.

Paul Humiston, Paul Meyer Architects, stated that the new septic system mound would be located on the western property that is being combined and will be sized to accommodate future expansion of the church. He stated that the secondary septic site would be further north of the parking. He noted that both plans have been approved by the building official.

Paul Johnson, church pastor, commented that the lower level classrooms are larger to allow large muscle activity for grade school, middle school, and high school aged children and would not be used for public gathering.

Mitchell stated that there was a letter received from a neighbor of the site asking the Council to review the original agreement and what would be allowed against this request.

Batty explained that this was the subject of some litigation a few years ago and a settlement agreement was reached in 2013 between the church and City. He explained that the settlement provided terms for future expansion, agreed upon by both parties, which were specified through a variance obtained in 2013.

Mitchell asked and received confirmation that what the applicant is proposing is within the original agreement.

Pederson asked and received confirmation that the church can expand through bits and pieces as long as the total size does not exceed the stipulations of the variance and original agreement.

Mitchell stated that one of his concerns was that the septic sites are secure and large enough as there is not sanitary sewer in this neighborhood. He referenced the third condition and noted that perhaps additional details should be specified.

Batty referenced the email that was received and mentioned by Mitchell from Martha Van de Ven that has been included in the record.

*Moved by Cousineau, seconded by Pederson, to direct staff to prepare documents granting approval for the Comprehensive Plan Amendment, rezoning, lot combination, Conditional Use Permit, Site Plan Review, and Interim Use Permit, related to the expansion of the Woodridge Church based upon the findings described in the staff report and subject to the conditions recommended by the Planning Commission. **Motion passed unanimously.***

B. Ellis and Nancy Olkon – Preliminary Plat – 2362 Willow Drive (7:54 p.m.)

Johnson noted that the Council previously considered a variance request in regard to this request and denied that request.

Finke stated that this is a requested subdivision of a 21-acre parcel into two parcels. He stated that the City did deny the variance request in December, noting that the Council considered that variance request prior to the Preliminary Plat as that plan was not

complete and available. He provided details on the rural residential zoning district requirement of five contiguous acres of suitable soils per lot and noted that the divided lots would have 1.3 and 1.5 acres of suitable soils which is short of that requirement. He stated that one of the lots would also not meet the lot width requirement as proposed. He noted that the proposed lots do not meet the minimum lot size requirements and therefore the Planning Commission held a public hearing the previous week and unanimously recommended denial of the request.

Tom Wexler, Edina resident, provided information on his legal career, noting that he is also a retired judge from Hennepin County. He stated that he is a reasonable person to work with and asked the Council to defer action tonight so that they could work together to find a solution if they do not think they could approve the request. He referenced a letter from Jennifer Haskamp that was sent within the past day and provided a copy to the City. He stated that there were three items that were mentioned by the Planning Commission as reasons for denial of the request, noting that two of the concerns are easily met. He stated that the lot width could be easily remedied and the setback concern could also be met by adjusting the lot line or tearing down the out buildings. He stated that the more controversial requirement is the five acres of contiguous suitable soils. He stated that the violation is not the size of the lot but is a septic tank requirement that requires five acres of suitable soils. He stated that both the ordinance and Comprehensive Plan tie the five-acre minimum to septic sites. He stated that he has not been able to find any reasoning that five acres of suitable soil is required for a safe and effective septic system. He stated that the City building official also stated that there is sufficient space on the lots to provide septic treatment. He stated that no other municipality in Minnesota requires five acres of contiguous suitable soils for septic treatment and therefore there is no government objective to requiring five acres of contiguous suitable soils. He stated that the Planning Commission did not feel that they had the authority to defer from the ordinance language but he hoped that the Council would be willing to continue discussions to reach a settlement. He stated that at the Planning Commission meeting the previous week he sat through a presentation for the Marx property which proposes lots of approximately 1.7 acres in size in return for land being preserved. He stated that this is an unfairness to Mr. Olkon that he would have two lots of ten acres in size while Mr. Marx would have lots with 1.68 acres in buildable land. He asked why that would be fair to Mr. Olkon, who could provide safe septic systems and provide lots of ten acres in size. He stated that in the 1980s, the Olkons donated the lower right-hand section of what would be lot two, in order to accommodate a road into the Hollybush development. He stated that while that is different to setting aside wetlands and property to be preserved, it allowed access to the Hollybush development which also benefitted the City. He stated that could be justification for granting approval of this proposal because of the land contribution they made to accommodate that Hollybush development. He referenced Resolution #86-75, in which the Council approved the Hollybush development with an access to Mohawk Drive and noted that with more investigation he could most likely find the resolution which references the access provided by the Olkons.

Ellis Olkon stated that after the Council denied the variance request he retained Jennifer Haskamp. He stated that Ms. Haskamp has met with staff on multiple occasions in an attempt to resolve this matter. He stated that he has also met with staff. He stated that there was a date set up for him to meet with the Mayor and Batty but his legal representation was not able to attend and therefore he asked to reschedule the meeting but Mitchell declined. He hoped that a meeting could be set up with himself, his legal

representation, staff, and the City's legal consultation in order to avoid further legal action and come to a settlement. He stated that he is a Medina resident and has been for many years. He stated that he has also served the City in other facets, noting his experience as an election judge. He stated that if the Council feels that they cannot approve the request, could they hold off action and allow for a meeting in hopes of reaching a settlement and saving the City the expense of legal fees.

Mitchell appreciated the input of Mr. Olkon.

Olkon noted that 100 percent of his neighbors are in support of the request.

Mitchell asked and received confirmation that the variance was denied in 2016.

Batty stated that the variance request came in before the plat and that is why the items were split. He stated that in staff's suggestion the variance was so extreme that they did not believe that it would be approved and therefore they allowed the variance to move through in attempt to save Mr. Olkon money on completing the preliminary plat. He noted that there are three variances that would be required. He stated that while two of the items are easily fixable, they have not been fixed even though the applicant was made aware months ago. He stated that the extension of the deadline bumps up against the next meeting date and therefore he would not recommend granting another extension unless Mr. Olkon agreed to the extension.

Pederson stated that while he feels sympathy for Mr. Olkon, the job of the Council is to use the ordinances to weigh requests.

Mitchell stated that this has been considered for months and the City needs to take effective action. He stated that unfortunately the request does not meet the standards.

Batty stated that effectively the Council is being asked to consider amending the ordinance. He recognized that the five acres of suitable soil is a unique requirement for lot sizes. He stated that the previous Councils that have considered that have decided not to change the ordinance. He stated that short of changing the ordinance the Council is being asked to consider extreme variances and if approved that would provide a precedent for future variance requests.

Cousineau stated that there must have been some history and reason for the five-acre suitable soil requirement.

Batty stated that has been in ordinance for some time as the method to create the lot size.

Mitchell stated that the City has a lot of wetland/marsh land with steep slopes and being that the City does not have sanitary sewer the residents must be able to provide suitable septic treatment.

Olkon stated that all of the experts on septic systems, including City staff and the City's building official, state that there is adequate space for two septic locations on both proposed lots. He stated that he has given the City 32 years of residency and service to the City over those years and asked for decency in at least meeting with him and his legal representation to determine if a settlement could be reached.

Mitchell noted that the denial of the plat is a result of the denial of the variance and therefore is a continuation of the prior action to finish the matter.

*Moved by Pederson, seconded by Cousineau, to direct staff to prepare a resolution to deny the proposed Preliminary Plat by Ellis and Nancy Olkon at 2362 Willow Drive based upon the findings described in the staff report. **Motion passed unanimously.***

C. Ordinance No. 607 Amending Section 525 of the Medina City Code Regarding City Park Commission (8:26 p.m.)

Johnson noted that staff received an application for the Park Commission from a resident that is under 18 and therefore staff contemplated the benefit of adding a member that is under 18. He stated that staff reviewed other metro cities that allow members under 18 years of age and therefore recommend amending the ordinance to allow youth members.

Cousineau stated that this would be a great opportunity to engage the youth and gain additional perspective. She noted that this would be a one year term for a member under 18 and would be a non-voting member. She stated that this is a great idea as the youth use the parks more than adults.

*Moved by Cousineau, seconded by Pederson, to Adopt Ordinance No. 607 Amending Section 525 of the Medina City Code Regarding City Park Commission. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT (8:28 p.m.)

Johnson reported that Mediacom received a broadband grant for Medina in the amount of \$170,868, which will give the City additional opportunity for build-out. He stated that staff will meet with Mediacom in an attempt to agree on a plan.

X. MAYOR & CITY COUNCIL REPORTS (8:28 p.m.)

Cousineau reported that she attended the mayors meeting this week. She stated that the Metropolitan Council was there to discuss how to go about updating the Comprehensive Plans, noting that Medina is almost complete with that process.

XI. APPROVAL TO PAY THE BILLS (8:29 p.m.)

*Moved by Pederson, seconded by Cousineau, to approve the bills, EFT 003977E-003995 for \$66,511.72, order check numbers 045369-045442 for \$287,027.88, and payroll EFT 507653-507683 for \$50,738.01. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Cousineau, seconded by Pederson, to adjourn the meeting at 8:30 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Scott Johnson, City Administrator