

MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 17, 2012

The City Council of Medina, Minnesota met in regular session on January 17, 2012 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Pederson, Martinson, Siitari, and Weir.

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Scott Johnson, Chief of Police Ed Belland, and Sergeant Jason Nelson.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

The agenda was accepted as presented.

IV. APPROVAL OF MINUTES

A. Approval of the January 3, 2012 Regular City Council Meeting Minutes

*Moved by Weir, seconded by Pederson, to approve the January 3, 2012 regular City Council meeting minutes as presented. **Motion passed unanimously.***

V. CONSENT AGENDA

A. Approve Raffle Permit to Tribute to the Troops at Medina Entertainment Center on September 9, 2012

B. Approve Cooperative Purchasing Agreement with the State of Minnesota

C. Approve Submission of the 2012 Minnesota Pay Equity Compliance Report

D. Amend Travel Policy 99.20

E. Call for 2012 Local Board of Appeal and Equalization Meeting for Wednesday, April 11, 2012 at 6:30 p.m. at Medina City Hall

F. Resolution No. 2012-03 Accepting Donation from Laverne Theis Memorial

G. Resolution No. 2012-04 Accepting Donation from the Hamel Volunteer Fire Department Relief Association

H. Ordinance No. 517 Adopting an Amended Fee Schedule

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

VI. PRESENTATIONS

A. Prosecuting Attorney Steven Tallen with Tallen and Baertschi

Steven Tallen, Tallen and Baertschi, explained that he prosecutes misdemeanor crimes for the City of Medina and provided examples including theft, first offense DUI, and traffic tickets. He stated that the majority of his cases are for assault and drunken driving. He advised that the County prosecutes felony crimes as well as cases of child abuse. He stated that the past year has been relatively quiet and provided an update regarding

types of testing for alcohol, including breathalyzer, urinalysis, and blood tests. He provided information regarding fine payment, the percentage of tickets which are appealed, and how a paid fee is distributed between the County, the law library, and the City.

Belland provided additional information regarding vehicle seizure and the sale of those vehicles.

Tallen commented on the poor level of the cameras used in the police vehicles, especially in the dark, and noted that equipment may need to be updated in the coming year to provide better quality evidence for the police department. He discussed late fees which are charged to fines after a certain period of time.

Martinson thanked Tallen for his many years of service to the City of Medina.

B. Richard Smith with the Office of Traffic, State of Minnesota “Safe and Sober Grant”

Belland noted that Richard Smith was unable to attend the meeting tonight. He reported that Sergeant Nelson drafted the grant application for Medina and nine neighboring lake communities the previous year. He advised that \$100,000 in grant funds were awarded through that application and commended Nelson for his hard work and efforts on this project. He advised that a radar unit was going to be awarded to the department because of this project and the efforts of Nelson.

Crosby congratulated the police department for their efforts and accomplishments.

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Scherer advised that the Park Commission would meet the following night to discuss the Great River Greening grant opportunity, the ball field lighting, the Park and Trail Master Plan and noted that the Commission would also be electing officers.

C. Planning Commission

Finke reported that the Planning Commission met the previous week to hold two public hearings. He provided an update on the Marx conservation design application as well as an Ordinance which would address setbacks for County and State roadways. He stated that Charles Nolan was re-appointed as Chair and Robin Reid was re-appointed as Vice-Chair for the Commission. He stated that staff is also working to fill the last vacant position on the Commission and hoped to have a recommendation prior to the next Council meeting.

VIII. NEW BUSINESS

A. Borchers/Kingsley – Request for Setback Variance at 1512 Tamarack Drive

Finke presented a request for a setback variance from the southern lot line in order to rebuild a swimming pool which already exists on the property. He stated that the swimming pool is currently setback 20 feet from the property line and explained that the

property owner is proposing to relocate the pool further back, which will provide a setback of 30 feet. He reviewed the variance criteria of the City as well as the practical difficulties of the site listed by the applicant and staff. He advised that the Planning Commission recommended unanimous approval of the request and stated that staff also recommends approval.

Weir commented that this request is an improvement on a current nonconformity.

*Moved by Weir, seconded by Martinson, to direct staff to prepare a Resolution approving the variance request based on the findings, and with the conditions described within the staff report. **Motion passed unanimously.***

B. Pemtom – “Fields of Medina”

Finke noted that the Council previously approved a preliminary plat for the Fields of Medina and advised that tonight Pemtom is requesting a final plat for the property. He presented the final plat for the Fields of Medina and highlighted specific areas including Outlot A which will be deeded for park dedication and Outlot E, which will be designated as Mixed-Use to fit with the Comprehensive Plan. He stated that staff recommends approval of the final plat for the subdivision as well as a Development Agreement to be signed by and between the City of Medina and Mattamy Partnership.

Crosby discussed the parcel which will be deeded as park dedication and questioned the maintenance responsibilities.

Finke explained that the parcel may be graded and seeded but noted that it would be the responsibility of the City to install equipment and maintain the site.

Batty provided legal counsel regarding the ability to convert that parcel to a non-park use, although he believed residents would be expecting a park at that location.

Dave Nash stated that he was present on behalf of the applicant, should any questions arise.

Scherer discussed the entrance and the island which had been agreed upon.

Weir questioned if staff and Pemtom had discussed the possibility of eliminating raingardens A and B and constructing one raingarden in the place of the center island.

Nash replied that he would not be in favor of that item as the excess water could become a safety issue.

Martinson apologized and explained to the Council that the time for negotiation has already occurred and reminded the Council that this is the final plat.

Siitari questioned if there was another purpose for the center island, other than aesthetics.

Nash explained that the center island is for aesthetics.

Martinson reminded the Council that Pemtom has already conceded some of the cul-de-sacs from the development to assist with plowing. She stated that these items are

favorable for homeowners and did not think that the Council could ask the developer to remove all of these items simply for ease of plowing.

1. Resolution No. 2012-05 Granting Final Plat Approval

*Moved by Weir, seconded by Pederson, to approve Resolution No. 2012-05 Granting Final Plat Approval for Fields of Medina. **Motion passed unanimously.***

Crosby asked when construction would begin.

Nash estimated that the construction would begin this summer.

Crosby welcomed Fields of Medina to the City.

2. Development Agreement by and between City of Medina and Mattamy Partnership

*Moved by Weir, seconded by Pederson, to approve a development agreement by and between the City of Medina and Mattamy Partnership. **Motion passed unanimously.***

C. Steinmetz – Request for Private Kennel License/Waiver at 1270 Oakview Road

Finke presented a request from Darlene Steinmetz for a private kennel license and a waiver for the number of pets allowed, allowing up to nine dogs and 25 cats at the property located at 1270 Oakview Road. He stated that the applicant did obtain a kennel license in 2004 which allows up to five dogs. He noted that the property in discussion is two acres in size and per regulation could have up to four dogs and four cats. He advised that all the animals would be kept as pets and explained that the Ordinance does not spell out a process for allowing additional cats. He stated that staff recommends continuing the existing license which allows for up to five dogs and stated that staff, and Belland, do not support allowing any additional animals.

Crosby stated that if the Council grants waivers to allow additional animals, above what is allowed per the Ordinance, additional enforcement would be required to ensure that the conditions are being followed.

Finke reviewed all the options for the Council, and reminded the Council that there is not an option to raise the number of cats allowed to more than what is specified by the Ordinance. He provided an example of a similar situation in which the homeowner was allowed a set amount of time to bring the number of animals at their home under the allowed amount.

Jessie Steinmetz, the daughter of the applicant, stated she also lives at the property. She stated that there was never an intention to hide the amount of animals living at the home. She stated that the first license allowed up to five dogs and believed that license was amended at a later date to allow up to seven dogs. She stated that when they applied to amend the number of dogs to nine, she was told by staff that there was not a license on file which allowed seven dogs and she could not find her copy of the license either. She noted that she did attempt to find the number of cats allowed by Ordinance around 2007 but was not able to find anything. She stated that they did allow an officer from the Medina police department into the home to verify the health and wellness of the animals and noted that they have not added to the number of animals living at the home in the past two years.

Darlene Steinmetz provided a letter from their veterinarian which vouches for the health of her animals.

Jessie Steinmetz provided a list of animal shelters in the area and explained that she has contacted a number of the shelters which stated that they are full and cannot take the cats.

Darlene Steinmetz provided background information regarding the process she followed to obtain the original license which allowed five dogs, and then to amend the license to seven and again to nine dogs. She again stated that the number of dogs has not increased in the past two years and there have not been any problems with the neighbors or complaints. She provided information regarding the breeds of the dogs and noted that the dogs are never outside unattended. She believed her property was close to three acres in size. She acknowledged the letter that some neighbors had signed in opposition of the number of dogs and noted that she was unaware of any complaints and advised that none of the direct neighbors signed the letter.

Jessie Steinmetz provided the ages of the dogs and advised that most of the dogs are at least five years of age and range up to near ten years old. She stated that although they do have 25 cats, they are attempting to adopt the cats to new homes. She advised that six cats are pending adoption at this time and noted that all the cats have been spayed or neutered. She stated that the cats were unadoptable at the shelters because of health problems, which has delayed the process of finding new homes, but confirmed that the cats are well taken care of at their home. She stated that it is difficult to find homes for healthy kittens, let alone cats with health problems. She stated that seven out of ten cats placed at a shelter are euthanized, and even no kill shelters euthanize cats for behavior problems. She advised that the economy has also caused an increase in the number of cats being turned into shelters. She provided additional information regarding the process that they are following in an attempt to find homes for the cats and the difficulties they are coming across during the process.

Darlene Steinmetz also provided information on the process of finding homes for the cats. She stated that all the cats are kept in their home. She stated that she had been told there is no limit on the number of outdoor cats a person could have but believed that the neighbors would have a problem with that number of cats being outdoors. She also did not believe that an outdoor setting would be a good fit for the cats, given their health problems.

Crosby provided background information regarding the animal Ordinance and the three applications which have come forward to the Council in the past six months to request a higher number of animals than allowed by Ordinance. He stated that this is the first case which is located on a small rural lot. He asked for additional information regarding the process that would have been followed to amend the kennel license.

Finke stated that the license to allow five dogs was found within the address file but noted that there were no other licenses or amendments found within the address file.

Belland stated that the police department has not received any complaints for this property.

Crosby referenced a written letter and petition that was received by the City from nearby adjacent properties.

Martinson confirmed that there were no specific complaints listed in the petition of the neighbors, simply the potential problems that had been listed by the City.

Crosby asked that the issue of dogs and cats be considered separately and suggested that the issue of dogs be considered first.

Belland stated that he would suggest allowing the five dogs allowed by the existing license.

Crosby stated that he would support up to five dogs, with a time period allotted to reach that number. He stated that given the history and honesty of the applicant he would suggest a substantial time period, up to two years, to reach five dogs. He asked for additional information regarding cats.

Belland stated that the City is not equipped to house cats and therefore does not have the same requirements and enforcement as dogs.

Martinson commented that the cats are all housed indoors and questioned the impact that has on any of the neighboring properties.

Belland stated that the main concern of the officer that visited the property was the smell of cat urine in the garage and the health impacts that could have.

Crosby stated that he believed this was a tough issue, attempting to determine what the role of the City should be.

Batty agreed that this was a tough issue and noted that with all the time spent developing the animal Ordinance, there was very little discussion regarding cats. He provided an example of another property at which a personal safety and health issue arose because of the cats housed there.

Siitari referenced the letter from the homeowner at 1290 Oakview Road and agreed with the comments made. He questioned if it was healthy for 34 animals to be housed in one home, and also the type of care that could be provided to that number of animals. He stated that there is a reason the Ordinance was developed and believed that the Council should follow the Ordinance to avoid a safety or health issue.

Crosby questioned if four was the appropriate number for cats, as there was not a discussion centering on cats when the Ordinance was amended this past year. He questioned if the City of Edina limited the number of cats.

Siitari confirmed that Edina limits the number of cats at three. He stated that generally, with cats, most cities deal with that issue on a complaint basis. He believed that most requests that would come forward to request additional animals would be for dogs.

Martinson suggested that the Council discuss the number of cats further in depth, as was done with dogs this past year.

Batty stated that tonight the Council could only allow four cats, as the Ordinance only specifies that action. He stated that the Council could later review the cat portion of the Ordinance.

Crosby stated that although his number of cats allowed would be less than 25, he also believed that it would be harsh to limit the applicant to four cats. He suggested that the dogs be reviewed tonight and that the Council further discuss the Ordinance, specific to cats, in the near future.

*Moved by Weir, seconded by Pederson, to revoke the existing kennel license for the property located at 1270 Oakview Road and grant a private kennel license allowing up to five dogs, with a period of up to two years to reduce from nine to five dogs, and also subject to the conditions noted by staff. **Motion passed unanimously.***

Darlene Steinmetz commented on the Council action and the fact that there had not been any complaints by neighbors regarding the dogs or cats.

Crosby stated that unfortunately the Council needed to take action and follow the path set by the Ordinance. He confirmed that staff would continue to follow up on the issue of cats and notify the homeowner once direction is clear.

VI. PRESENTATIONS (CONTINUED)

B. Richard Smith with the Office of Traffic, State of Minnesota “Safe and Sober Grant” (continued)

Richard Smith apologized for his tardiness and stated that he works for the department of traffic and safety and one of their responsibilities is to issue grants for education and enforcement. He recognized the Police Department of Medina for their efforts and presented a Stalker Radar to the department. He stated that there are 341 departments which participate in the program and noted that Medina was one of nine being awarded.

VIII. NEW BUSINESS (CONTINUED)

D. Ordinance No. 518 Amending Chapter 8 of the Code of Ordinances Regarding Street Setbacks

Finke stated that this regulation came forward when reviewing a request from the property at 805 Hamel Road during the previous Council meeting. He stated that in the past, the setback standard has not always been enforced and discussed setback requirements for other zoning districts and along other types of roadways. He noted that the Planning Commission did review the item following the previous discussion by the Council, and noted that staff would suggest a 50 foot setback for arterial and major collector roads. He reviewed the proposed language and advised that this issue would not only affect arterial and major collector roads, but all roads. He confirmed that staff would continue to work on this issue and bring forward another Ordinance amendment in the future which would apply to the setbacks for other types of roads.

*Moved by Weir, seconded by Siitari, to adopt Ordinance No. 518 Amending Chapter 8 of the Code of Ordinances Regarding Street Setbacks. **Motion passed unanimously.***

1. Resolution No. 2012-06 Authorizing Publication of Ordinance No. 518 by Title and Summary

Moved by Weir, seconded by Martinson, to approve a Resolution No. 2012-06 Authorizing Publication of Ordinance No. 518 by Title and Summary. **Motion passed unanimously.**

IX. OLD BUSINESS

A. JJC Hamel LLC – 805 Hamel Road

Finke stated that typically this item would have been included on the Consent Agenda but noted that approval for the previous item, regarding setbacks, needed to be approved prior to this item. He stated that the condition which specifies the timeline to apply for final plat had been changed from 180 days to 360 days.

Weir addressed the significant oak tree located on the property and asked for additional information regarding the possibility to save that tree.

Finke stated that there is a tree preservation Ordinance which would govern that action. He stated that he was unsure that a specific tree could be identified.

The applicant stated that he would save the trees that he could but could not promise anything specific.

Crosby suggested amending condition eight to read, efforts should be made to preserve the 28 inch oak tree in the northeast portion of the property but such efforts are not a requirement of this Resolution.

Siitari stated that there is a tree preservation Ordinance and questioned if this level of minutia should be included and placed on the landowner.

Martinson agreed and commented that the City is not giving any incentive to the property owner for that action.

Finke stated that language could be included which would allow flexibility in tree replacement if that large oak tree is preserved.

1. Resolution No. 2012-07 Granting Preliminary Plat Approval to JJC Hamel, LLC, for Property Located at 805 Hamel Road

Moved by Weir, seconded by Siitari, to adopt Resolution No. 2012-07 Granting Preliminary Plat Approval to JJC Hamel, LLC, for Property Located at 805 Hamel Road, as amended. **Motion passed unanimously.**

2. Ordinance No. 519 Rezoning the Eastern 117 Feet of 805 Hamel Road to the Two Family Home (R2) Zoning District

Moved by Weir, seconded by Pederson, to approve Ordinance No. 519 Rezoning the Eastern 117 feet of 805 Hamel Road to the Two Family Home (R2) Zoning District. **Motion passed unanimously.**

3. Resolution No. 2012-08 Authorizing Publication of Ordinance by Title and Summary

Moved by Weir, seconded by Pederson, to approve Resolution No. 2012-08 Authorizing Publication of Ordinance No. 519 by Title and Summary. **Motion passed unanimously.**

X. CITY ADMINISTRATOR REPORT

Johnson referenced a letter from Hennepin County Sheriff Rich Stanek relating to the possibility of the County charging for dispatching services.

Crosby suggested that the City wait until opinions on that matter are received from other cities before the City expresses their opposition, as he believed that there may be more opposition.

Johnson stated that Crosby and Weir would not be attending the meeting on February 8th and wanted to ensure that all other members of the Council would be present to provide a quorum.

Pederson stated that he is traveling that day but should be able to attend.

Martinson questioned if the meeting could be canceled.

Johnson stated that the agenda for the meeting would be light and could be canceled. He confirmed that the next meeting would be held on February 21st.

XI. MAYOR & CITY COUNCIL REPORTS

Pederson provided an update on the Uptown Hamel meeting which he recently attended.

XII. APPROVAL TO PAY THE BILLS

*Moved by Weir, seconded by Pederson, to approve the bills, EFT 001464E-001490E for \$49,569.52 and order check numbers 037816-037893 for \$1,258,808.88, and payroll EFT 503988-504018 for \$45,617.44. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Weir, seconded by Siitari, to adjourn the meeting at 9:12 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Scott Johnson, City Administrator