

## **MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 18, 2011**

The City Council of Medina, Minnesota met in regular session on January 18, 2011 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

### **I. ROLL CALL**

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

**Members absent:** Siitari.

**Also present:** City Attorney Mary Tietjan, City Engineer Tom Kellogg, Police Chief Ed Belland, City Planner Dusty Finke, 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 4, 2011 Regular City Council Meeting Minutes**

It was noted on page one, line 32, it should state, "...for up to the next two months." On page 3, line 13, it should state, "...partnerships as being similar to ones he has observed in other situations." On page four, line 14, it should state, "...also believed it is necessary for the Council to review..." line 30, it should state, "...large citizen projects, Tomann Park and former Wolsfeld cabin, completed in the City."

*Moved by Weir, seconded by Pederson, to approve the January 4, 2011 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Accept \$15,000 Donation form Hamel Firemen's Relief Association**

#### **B. Accept \$100 Donation from Residential Mortgage Group, Alerus Financial**

#### **C. Approve Amendments to Friends of the Park Program**

#### **D. Approve EPDB Conditional Use License Agreement with Hennepin County**

#### **E. Approve Revision to Personnel Policy 6.50 Parental Leave**

Weir asked to remove Item VC, Approve Amendments to Friends of the Park Program, from the consent agenda.

*Moved by Weir, seconded by Pederson, to approve the consent agenda with the exception of Item VC. **Motion passed unanimously.***

#### **C. Approve Amendments to Friends of the Park Program**

Adams suggested adding the following: "Policy Statement: From time to time the City is approached by citizens or citizen groups with well intentioned proposals for improvements to City property, often at no expense to the City. The City must ensure that such projects fit into long term plans for the City properties for which the projects are

proposed and that they do not add unreasonably to City grounds and facilities maintenance responsibilities.”

Weir questioned the need to attach a list of approved projects. Adams noted that is addressed in Item 1.

*Moved by Weir, seconded by Martinson, to approve the Friends of the Park Program as amended and to add a Policy Statement. **Motion passed unanimously.***

## **VI. PRESENTATION**

### **A. Prosecuting Attorney Steve Tallen**

Tallen updated the Council regarding cases handled over the last year and advised this is the second year that they were not asking to increase fees. However, he did recommend the City use their legal assistant, when appropriate, since it would be billed at \$66.50 per hour instead of the attorney rate of \$118 per hour. He advised the legal assistant has 20 or more years of experience. Tallen referenced the financials reflecting the City received fine/bail forfeiture revenue in 2010 in the amount of \$119,086.70 and it is estimated that total will be just short of \$130,000 when December revenues are included. Medina had been billed \$53,310.25 in 2010 for legal services.

Crosby asked how much the City expended for the Wild Meadows claim. Tallen and Adams estimated \$10,000. Crosby explained a house had been incorrectly constructed in Wild Meadows resulting in water intrusion and mold issues. The City prosecuted the contractor for not using the proper connector and the case was ultimately settled.

Tallen commented on the types of prosecutions handled by his firm on behalf of the City, their work with Police Chief Belland, and pending litigation. He indicated he has worked as Medina’s prosecuting attorney for twenty-five years.

Crosby commented that a prosecuting attorney is necessary if Medina’s policing is to have “teeth.” Tallen stated the City’s police officers do a good job and Medina has a reputation for enforcement. In response to Crosby’s questions, Tallen explained the types of revenue generated through payment of tickets and collected fines, some of which are a negotiated settlement.

Crosby stated if the Wild Meadows litigation costs are not included, the net revenue was about \$80,000. Tallen noted the \$119,000 total does not include December revenue. He advised that the court takes 20% of what is collected to cover its fees and adopted a policy to let offenders work off their fines at a rate of about \$100 per day.

*Council consensus was reached to support Tallen’s recommendation to use the legal assistant, when appropriate.*

## **VII. COMMENTS**

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

There were none.

**B. Park Commission**

Park Commissioner Janet White summarized the items that would be discussed by the Planning Commission at the January 19, 2011 meeting.

**C. Planning Commission**

Finke reported on the three public hearings held by the Planning Commission. The site plan and CUP for the Holy Name Cemetery expansion was recommended for approval with some changes to the conditions and will be presented to the Council in February. The second public hearing was to consider the subdivision at 805 Hamel Road, a three-fourths acre property into three lots, which was tabled pending submittal of additional information. The third public hearing was for the Holasek-Nolan rezoning and lot split, which the Council will consider tonight.

In consideration of the Holasek-Nolan applicants, the Council agreed to next consider Item IXB.

**IX. NEW BUSINESS**

**B. Holasek-Nolan Lot Split and Rezoning**

Finke presented the request of Lennar in conjunction with the Holasek-Nolan families to split the 33 acres unaddressed parcel to the north of 3212 Hunter Drive into 4.6 acre and 28.4 acre parcels. This split will be accomplished through a metes and bounds division, creating lots for future development, in recognition that there will be further subdivision and development of both parcels. Finke displayed a diagram identifying the proposed lot split and indicated the property is guided in the Comprehensive Plan as medium density residential with a current zoning of PUD2, which is not consistent. However, the City decided to not rezone this property due to the pending application under consideration. Now that the lot split is being considered, staff recommends rezoning of the northern 4.6 acre parcel to R-2. Finke explained that the City generally obtains right-of-way and easements during the lot split subdivision. In this case, the City Engineer has recommended dedication of right-of-way for Hunter Drive for 33 feet from the centerline and a ten-foot front drainage/utility easement. Easements for the southern parcel will be obtained with the Enclave development. The park dedication will be considered by the Park Commission at its January 19, 2011 meeting and presented to the Council at its first meeting in February. It is staff's recommendation that park dedication on the whole parcel be deferred until the lots are developed. Finke advised that the Planning Commission has recommended approval subject to six conditions as detailed in the staff report.

Crosby noted the survey identifies an existing ten-foot right-of-way. Finke stated that is an easement for the power company, not for roadway. Crosby expressed concern and indicated the City's easement rights should not be subordinate to the utility company's easement. Finke explained that this issue was brought up with the plat opinion and can be addressed by legal counsel. Attorney Tietjan advised that the scope of the easement and boundary issues will have to be researched but easements could co-exist if there was not a conflict in use. Crosby stated this needs to be resolved.

Crosby asked about the size of the easements. Finke stated the standard is to take a perimeter easement (5-10 feet) on the exterior lot lines. He identified the wetland edge that would contain an easement and explained that staff is not recommending additional easements, only the front easements along Hunter Drive. The rest of the easements

would be achieved when a principal structure is constructed or the property further subdivided. Crosby asked that the record reflect that all of the easements were not exacted at this time based on the intent to obtain them at a future point.

Weir stated she would like to assure the record is clear that easements will be taken in the future. She suggested Condition 2 be revised to indicate: "including perimeter easements, wetland setbacks, and the like." *The Council agreed with this revision.*

*Moved by Weir, seconded by Pederson, to direct staff to prepare a resolution for lot split approval and an ordinance for rezoning as discussed and amended this evening with consideration of the park dedication recommendation from the Park Commission at the February meeting. **Motion passed unanimously.***

## **VIII. OLD BUSINESS**

### **A. Hamel Ball Field Lights**

Adams presented the proposal from Bonestroo outlining Phase I and II work to utilize the Twins Community grant funding of \$25,000. He advised the proposal allows flexibility in the bidding process with the understanding that Phase II would be added later. Adams stated staff is not requesting action on this matter tonight and is waiting for a commitment from the Hamel Athletic Club (HAC) on the project prior to proceeding.

Weir raised the issue whether HAC's fund raising signs will have to comply with the City's sign ordinance. Finke stated that staff can review the proposed signs but the signs are essentially exempt, being internal signage, so a sign permit would not be required. It was noted that this signage would be removed at the end of the season.

*The Council concurred with staff's interpretation assuming the signage is tasteful and consistent in design.*

## **IX. NEW BUSINESS – CONTINUED**

### **A. Hamel Athletic Club Ground Services Agreement**

Adams presented the Hamel Athletic Club (HAC) Grounds Services Agreement, noting that HAC had requested a longer term contract or assurance they would be able to use the fields in the future. Staff also intended to secure a stronger pledge commitment from HAC in the agreement rather than a verbal pledge. He stated staff can construct language so the rates and fees are reviewed every several years and requested Council comment.

The Council addressed the varying levels of enthusiasm shown by HAC and expressed concern with a long-term commitment. The Council agreed that if HAC is offering and conducting a quality program, there is no concern; however, that assurance currently does not exist. It was noted the contract had been drafted for a two-year term but HAC had requested a longer term.

Crosby indicated that staff can draft language that benefits both parties and HAC can be offered the first right of offer rather than a first right of refusal.

Pederson asked if pricing percentages would be included. Crosby stated that would not be included so the market can be considered when setting the fee.

Martinson suggested revising the scope of services to include a reasonable notification clause. *The Council agreed with this revision.*

Pederson asked if there will be a time limit when the lights can be used. Adams explained that is detailed in the Park Ordinance and could be revisited by the Park Commission, if needed. Crosby felt it was important to discuss, at the Council level, the hours light can be used because of the potential impact upon the Lennar development.

*Moved by Weir, seconded by Pederson, to table the Hamel Athletic Club Grounds Services Agreement for redrafting. **Motion passed unanimously.***

#### **X. CITY ADMINISTRATOR REPORT**

There was none.

#### **XI. MAYOR & CITY COUNCIL REPORTS**

Weir stated she has been attending Pioneer/Lake Sarah and Elm Creek Watershed District meetings and explained she is becoming increasingly concerned about the cost to address TMDLs and to re-meander the stream and extend the wetland in Loretto, estimated at \$400,000. Discussion was held on how to raise project money by making the watershed a taxing authority or through an ad valorem tax within the watershed. An ad valorem tax is estimated to increase taxes on a \$400,000 valued home by at least \$200/year. Weir stated it appears the watershed districts do not understand how unreasonable that type of increase would be to enact so she had raised her concern. She explained that the tax increases would be smaller should the watershed district become a taxing authority and perhaps, over time, funds could be accumulated to address expensive projects. Weir stated she had also asked why the grant application for re-meandering the stream and extension of wetlands was turned down for a second time. She explained that the grant requires matching funds, which the watershed district does not have. Weir announced a meeting on January 20, 2011, 1:30 p.m., and encouraged Councilmembers to attend if they are available.

#### **XII. APPROVAL TO PAY THE BILLS**

*Moved by Weir, seconded by Pederson, to approve the bills, EFT 000972-000996 for \$79,625.73 and order check numbers 036429-036483 for \$138,187.00, and payroll EFT 503237-503266 for \$46,672.59 and payroll check numbers 020333-020334 for \$460.23. **Motion passed unanimously.***

#### **XIII. ADJOURN**

*Moved by Pederson, seconded by Weir, to adjourn the meeting at 8:04 p.m. **Motion passed unanimously.***

Attest:

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T.M. Crosby, Jr., Mayor

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Chad M. Adams, City Administrator-Clerk