

## **MEDINA CITY COUNCIL MEETING MINUTES OF MAY 3, 2011**

The City Council of Medina, Minnesota met in regular session on May 3, 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 Ron Batty, City Engineer Tom Kellogg, City Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Chad Adams, Finance Director Jeanne Day, Planning Consultant Nate Sparks, Management Intern Dale Cooney, Police Chief Ed Belland, and Recording Secretary Amanda Staple.

### **II. PLEDGE OF ALLEGIANCE**

### **III. ADDITIONS TO THE AGENDA**

Weir requested to add an item under New Business, Resolution Thanking Staff Volunteers Who Assisted with Clean-Up Day.

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

### **IV. APPROVAL OF MINUTES**

#### **A. Approval of the April 19, 2011 Special City Council Meeting Minutes**

*Moved by Weir, seconded by Pederson, to approve the April 19, 2011 special City Council meeting minutes as presented. **Motion passed unanimously.***

#### **B. Approval of the April 19, 2011 Regular City Council Meeting Minutes**

It was noted on page three, line 31, it should state, "...from all landowners within whose setbacks hunting is proposed..." On page four, line four, the following sentence should be added, "He discussed the concept of different setbacks, where bow hunting is directed away from the affected landowners." On page five, line 26, it should state, "...she had spoken with ~~someone~~ Tom McDowell, who advised confirmed the trail north of 24 has been removed. She conjectured that Bakers Park was nearing the 80/20 land use designation, meaning..."

*Moved by Weir, seconded by Martinson, to approve the April 19, 2011 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Appoint Dale Cooney as Part-Time Temporary Associate Planner**

#### **B. Approve Temporary On-Sale Liquor License to Wildlife Rehabilitation Center at 3000 Hamel Road on August 6, 2011**

#### **C. Accept Donation from Melissa Martinson**

- D. Resolution Approving State of Minnesota Joint Powers Agreements with the City of Medina on Behalf of its City Attorney and Police Department
- E. Resolution Adopting a Comprehensive Plan Amendment Regarding the Future Land Use Regarding a Portion of the Property of "The Enclave" Residential Development
- F. Resolution Authorizing Debt Service Fund Balance Transfer and Closing
- G. Schedule Special Meeting for May 11<sup>th</sup> at 7:00 p.m. in the City Hall

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

## VI. PRESENTATIONS

### A. 2010 Annual Financial Report – Abdo, Eick, and Meyers

Steve McDonald reported that the audit of the 2010 financial statements had been completed and presented the findings to the Council. He stated that there was an unqualified or clean opinion on the financials and no findings, and thanked staff for their contributions and cooperation. He compared the general fund balance to the budget, and explained the difference in the ratio for the City to that of peer groups.

Crosby explained that in order to increase the general fund balance the City would have to be run at a surplus, which the Council and staff try to avoid. He noted that in some instances the City could run at a surplus to maintain a healthy general fund balance.

McDonald compared the general fund budget to the actual expenditures. He noted that taxes make up 68 percent of the general fund revenue.

Crosby questioned why fines and forfeitures were significantly lower than the prior year.

Belland advised that a number of officers were out due to injury, personal reasons, and because of the 80 hour furloughs for officers.

McDonald reviewed the other City funds and balances including special revenue, capital projects, and debt service. He reviewed the water fund and sewer fund. He then displayed information comparing the Medina ratios to that of Class 4 and West Hennepin Cities peer groups.

Crosby explained that the City bonded for a water tower which was not built and noted that would affect the rating of the City, as the debt would not be offset by the asset. He asked for further clarification regarding transfers.

McDonald explained transfers and provided examples of situations in which a transfer would be done.

*Moved by Weir, seconded by Pederson, to accept the 2010 Annual Financial Report. **Motion passed unanimously.***

### B. Resolution Recognizing Dusty Finke for Five Years of Service to City

Crosby read and presented a resolution recognizing Dusty Finke for five years of service to the City of Medina and reviewed the responsibilities and projects Finke has contributed to over those years.

Finke thanked the City for the educational support he received.

*Moved by Martinson, seconded by Pederson, to approve a resolution recognizing Dusty Finke for five years of service to the City of Medina. **Motion passed unanimously.***

## **VII. COMMENTS**

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

There were none.

### **B. Park Commission**

Park Commissioner Jean Beaupre summarized the discussion at the last meeting including Hamel Library relocation, landscaping projects for the spring, and the Pentom project. She noted that the Commission has also been discussing the ball field lighting with the Hamel Athletic Club.

### **C. Planning Commission**

Planning Commissioner Vicki Reid advised that the Planning Commission also reviewed the Pentom project and recommend approval of the request. She noted that PupTown and a request from Janet White were also reviewed and the Commission also recommended approval of those requests.

## **VIII. NEW BUSINESS**

### **A. Hunter Drive (South) Road Improvement Project**

Adams reviewed the public hearing process and provided background information regarding the street repair funding in Medina and the use of assessments. He displayed a map of the City and highlighted the project area. He then further explained the assessments and the method used to determine the assessment amount. He noted that the total assessment amount is set at 22 percent, but advised that the Council did have the authority to lower the assessment percentage to 20 percent. He advised that this would be the last opportunity for residents desiring to appeal the assessment in writing.

Crosby opened the public hearing at 7:45 p.m.

Crosby read a letter from Dan and Lynette Robbins, 2585 Brockton Lane, stating that their property did not have access onto Hunter Drive and requested to be removed from the assessment.

Day confirmed that parcel should be removed from the assessment.

Crosby read another letter from the association at North Ridge Farm in regard to an outlot, which houses common space for the association, and asked that the whole assessment for the parcel be removed.

Day confirmed that parcel should also be removed from the assessment.

Batty advised that a written objection must be received prior to the closing of the public hearing if a landowner wishes to object to the assessment.

Moved by Weir, seconded by Pederson, to close the public hearing at 7:48 p.m. **Motion passed unanimously.**

1. **Resolution Approving Plans and Specifications and Ordering Project**

Moved by Weir, seconded by Martinson, to approve the resolution approving the plans and specifications and ordering project for Hunter Drive south improvement with amended language to include that the Council finds the improvement has no relation to the Comprehensive Plan and the Council declares to reimburse the project cost with tax exempt bonds. **Motion passed unanimously.**

2. **Resolution Adopting Assessment Roll**

Moved by Weir, seconded by Pederson, to adopt the assessment roll for the Hunter Drive (south) improvement project, removing number 39 and number 14, and to rebalance the assessment rate to 20 percent. **Motion passed unanimously.**

B. **Hunter Drive (North) Road Improvement Project**

Adams noted that this item was not a public hearing and advised that the Council would be approving plans and specifications and ordering advertisement for bids.

Crosby explained that this project is a reconstruction and would mostly be funded by the Lennar Development. He noted that the plans and specifications would be approved through this action.

1. **Resolution Approving Plans and Specs and Ordering Advertisement for Bids for Hunter Drive (North) Street and Utility Improvements**

Moved by Weir, seconded by Pederson, to approve the resolution approving the plans and specifications and ordering advertisement for bids on Hunter Drive (north) improvement with amended language to include that the Council finds the improvement has no relation to the City's Comprehensive Plan. **Motion passed unanimously.**

C. **Resolution Providing for the Sale of Approximately \$510,000 General Obligation Bonds, Series 2011A and \$1,065,000 Taxable General Obligation Improvement Bonds, Series 2011B**

Crosby explained that the bond request in the amount of \$1,065,000 is in regard to Hunter Drive North and the request in the amount of \$510,000 is in regard to the equipment and Hunter Drive South.

Martinson questioned why the project cost varies from the bonding amount.

Day explained the additional bonding required to cover additional issuance costs, interest, and the total project cost.

Moved by Weir, seconded by Pederson, to approve the resolution providing for the sale of approximately \$510,000 general obligation bonds, series 2011A and \$1,065,000 taxable general obligation improvement bonds, series 2011B. **Motion passed unanimously.**

D. **Pentom Land Company – A Stage I Plan for a phase Mixed Use Development, which will include detached Single Family Townhomes, and**

**Commercial – located north of State Hwy 55, west of County Road 116 and south of Foxberry Farms**

Sparks presented the request from Pemtom Land Company, which is proposed for 63 single family units and 130 townhomes. He explained that a Stage I review establishes general layout, land uses, densities, and Planning Commission and City Council input. He noted that full details would be obtained in the Stage II review, which must be similar in layout and meet the conditions of Stage I. He noted that the subject site includes three properties and is approximately 90 acres in size. He reviewed the current zoning and land uses designations for the three parcels and noted that all the properties would need to be rezoned to Mixed Use during Stage II of the review. He explained the density requirements and noted that the average density would be 4.5 and falls within the required density level; he also noted that the plan has proper transitions. He advised that a traffic study would be needed for the site, reviewing the roadways within the area, and advised that a traffic light study would also need to be completed. He displayed proposed layouts of the site and advised that the applicant plans to construct the single family homes first. He advised that this site is within area one of the park study area and confirmed that the applicant is proposing a six acre park, which could be combined with land dedication from other parcels to create the larger park desired by the City. He reminded the Council that the plan is conceptual in nature during this stage and full details would follow in Stage II. He then reviewed the required plan changes determined by staff in order for the plan to conform to City Code and ordinances. He also reviewed additional conditions of approval. He noted that the Planning Commission recommended approval with the listed conditions and advised that if the Council approves, they should direct the findings to be drafted in approval with the conditions.

Pederson received clarifying information regarding the traffic study area and the lots that may interfere with the wetland buffer.

Crosby questioned how the proposed density of the site compares to the estimates the City made in regard to density on the Comprehensive Plan.

Finke confirmed that the proposed density fits within the guides for the Comprehensive Plan and explained how the density numbers were estimated within the Plan.

Crosby wanted to ensure that the developer would be aware of the costs in regard to Tamarack Drive at an early stage in the project. He reviewed the comment made by a resident of Foxberry Farms in regard to the project and the proximity of such a high density area near their home. He questioned the appropriateness of the name Meander Road and suggested it might be reconsidered.

Martinson questioned if the number of proposed units had changed due to the roadway changed. She questioned whether the layout of the townhomes should be required in this stage of the review.

Sparks explained that the applicant must submit the overall plan at this time, but advised that three different Stage II reviews could be submitted for each section of the development: single family homes, townhomes, and commercial.

Dan Herbst, Pemtom spokesman, thanked the Council for their cooperation in this process and introduced the Jubert family and David Nash, who were present tonight, and advised that the homebuilder was not present at the meeting tonight. He was

excited to be working with such a talented team and explained that his company believes in full disclosure to the buyers. He advised that in this stage there is an overall layout being submitted. He explained that when the Stage II is submitted it would be only for the single family section of the development and noted that he does not have control of the townhome or commercial properties at this time. He reviewed the price points for the single family and townhome models, and the potential buyers for the homes. He stated that they would like to break ground this fall and have a product ready within approximately one year.

Crosby questioned if the listed conditions and recommendations were of any concern to his company.

Herbst stated that they are making concessions and explained that homeowners like cul-de-sacs.

Weir advised that City staff has concerns over snow removal in regard to cul-de-sacs.

Herbst stated that cul-de-sacs are plowed in many surrounding communities without problem.

Scherer stated that the City of Plymouth contracts out plowing of cul-de-sacs and they experience a large bill for that service. He noted that most of his complaints received in regard to snow are from cul-de-sacs.

Herbst noted that his company responded to the staff concerns and thanked staff for their cooperation.

Crosby stated that he would like to welcome the development to the City.

Herbst reviewed the sewer and water connection fees for high density building and was unsure how the builder could meet the desired price point with the high amount of City fees.

Bill Ciora, 915 Sunset Court, stated that he is the Foxberry resident that spoke at the Planning Commission meeting. He expressed concern with the proposed trail which would connect to Foxberry, and noted that the trail would cross private property. He advised that the residents maintain the private property and did not believe the residents would want to share that area with the general public. He did not believe the calculations done in regard to density were correct.

Sparks advised that corrections were made to the density averages and explained the differences.

Ciora expressed concern over additional traffic onto 116. He stated that the Wayzata School District is almost maxed out as is and believed that there would be potential problems with additional children being added into that school district.

Adams stated that he has met with the school Superintendent more than once in the past year in regard to future planning and this application, as well as Lennar, in specific.

Crosby explained that although the single family homes are the only development proposed at this time for the entire 90 acre tract, the land designation is being agreed upon by the other two parcel owners as well, locking into this type of development for the 90 acres.

Crosby briefly recessed the meeting at 9:00 p.m.

Crosby reconvened the meeting at 9:08 p.m.

Joe Cavanaugh Sr. addressed the Council, as his parcel neighbors the parcel in discussion. He expressed concern over additional traffic being pushed onto 116 from this development and other future development in this area. He stated that eventually the City will need to make another exit from the development and believed that building a connection from Tamarack to Highway 55 would greatly help with traffic.

Crosby stated that in Minnesota most of the State highway planning is retroactive and not proactive. He stated that the focus is on the traffic study to determine the best route for Medina.

*Moved by Weir, seconded by Pederson, to direct Staff to prepare a resolution for the approval of the Stage I plan with listed conditions to the development proposed by Pemtom Land Company. **Motion passed unanimously.***

**E. Thomas and Jillene Kingstedt – A Conditional Use Permit (CUP) to operate a dog daycare, grooming and indoor boarding to be known as PupTown in the Commercial General (CG) district – 810 Tower Drive**

Cooney reported the conditional use permit requested by Thomas and Jillene Kingstedt to operate a dog daycare, grooming and indoor boarding at 810 Tower Drive. He displayed an aerial photo of the property and reviewed the proposed uses and property description. He also displayed a sketch of the proposed interior layout for the building as well as the proposed exterior layout and landscaping. He noted that the planned landscaping would not quite meet the requirements of the City, but stated that staff did not have an issue with the proposed tree plan, only suggesting that the size of the trees be increased to compensate. He reviewed the zoning and performance standards in regard to parking, landscaping, and trash. He then reviewed the supplemental conditional use requirements.

Crosby questioned if approval of this request would provide authorization for veterinary services.

Cooney was uncertain if those services could be provided.

Finke stated that it would be allowed as a conditional use for the district, but noted that it is not a condition of this use.

Cooney summarized the discussion of the Planning Commission during their review of the request in regard to the original waste disposal method, water quality concerns, and fence color. He noted the recommendations of the Planning Commission were included in the staff report.

Scherer questioned if the culvert issue would be addressed.

Thomas Kingstedt confirmed that he would attempt to fix the culvert issue.

Crosby questioned if the City is starting this item as a clean slate or whether additional information was gained through neighboring communities and through horse regulations.

Cooney advised that other cities use licensing to ensure the standards are met and explained that the City will instead use the conditional use permit to regulate the property.

Finke noted that a large amount of research was completed in regard to this issue.

Batty advised that due to staffing, it was determined that land use would be the best method of control for the property, compared to licensing. He explained that in regard to noise, the condition was drafted for anticipated use and could be tweaked at a later date.

Weir questioned whether a condition should be added stating that all boarded animals should be spayed.

Kingstedt confirmed that a condition of the business would be that all animals over seven months be spayed and have proper shots. He addressed the Council as a co-owner of PupTown and stated that he did not have any concerns or issues that would not comply. He stated that he is excited to bring a positive, clean environment where dogs can be left for the day, to be groomed, or to be boarded within the area.

Crosby confirmed that no adjacent property owners expressed concern. He asked for additional information regarding the free day comment made at the public hearing.

Kingstedt advised that the process would involve one free day in which the animal can be assessed for problems. He noted that if a problem arises the owner would be called to pick up the animal.

Hannah Buckley, 1822 Morgan Road, provided input regarding the outdoor management of the facility in regard to snow removal. She also provided suggestion for additional materials that could be used to screen noise.

*Moved by Weir, seconded by Martinson, to authorize staff to prepare a resolution of approval for a conditional use permit at 810 Tower Drive, with an added condition requiring boarded animals be spayed. **Motion passed unanimously.***

**F. Janet White – Variances from front and rear yard setbacks to reconstruct a new home in the Urban Residential (UR) zoning district – 4642 Brook Street**

Finke presented a request for variances from setback requirements at 4642 Brook Street and explained that the applicant is requesting to demolish the existing home on the property and reconstruct a home with a slightly larger footprint. He advised that the existing home does not meet many dimensional standards of City Code. He noted that staff does not believe that a home could be constructed on the existing lot without a variance from at least one setback requirement. He displayed the proposed site plan for the property, highlighting both the existing home and the home being proposed. He advised that the proposed one-story home is actually slightly shorter than the existing home. He advised that six criteria must be reviewed in regard to variance issuance and

provided information regarding the State Statute standard for variances. He noted that there is no place to locate a home on the lot that would meet the setback requirements.

Crosby stated that the question could be brought forward asking why the home is not rebuilt on the existing footprint.

Batty explained the variance process and advised that the lot cannot support anything, so the Council needs to determine if this variance package for this home would provide a reasonable use. He stated that he is confident that the proposed home would be a reasonable use.

Finke noted that overall the setbacks will be improved. He advised that staff and the Planning Commission recommend approval of the request, subject to the listed condition.

Crosby confirmed that the issues brought forward by a resident at the public hearing had been addressed.

Weir confirmed that there is a rain garden tentatively being planned for this property.

*Moved by Weir, seconded by Pederson, to authorize staff to prepare a resolution of approval for a variance from setbacks at 4642 Brook Street. **Motion passed unanimously.***

**G. Bruce and Jean Neumann – Private Kennel License – 25 Hamel Road**

Finke presented a request from the Neumanns at 25 Hamel Road to allow up to 12 dogs (Chihuahuas) in the home. He advised that the dogs would be kept as pets and would not be bred or sold. He noted that the Council denied a request in 2007 to allow 12 dogs, but that included breeding and selling, which is not requested in this kennel license. He advised that there was a police review which found that 12 dogs may raise nuisance concerns in the future. He noted that staff reviewed animal regulations and identified potential changes, which will be reviewed later in the agenda. He reviewed the potential actions the Council could take.

Crosby stated that in his opinion if the animal regulations need to be changed, that should be done prior to review of this request.

Weir agreed that process made sense, but stated there is a possibility to let this request go through.

The Neumann's dog sitter commented that she brought two of the dogs tonight to show the Council the size of the dogs and that they do not make much noise. She was disappointed that Mr. Neumann is not able to breed any more.

Jean Neumann, 25 Hamel Road, stated that they have done a lot to bring the property into conformance, giving away several of their dogs. She noted that two dogs are currently being kept on the property and a dog sitter is watching the other eight dogs. She advised that only two dogs go outside and the rest are trained to use the potty papers in the home. She advised that the two larger dogs are about seven pounds each and the others are miniatures weighing two or three pounds.

Crosby asked if a new Code were developed, could a variance be issued for smaller dogs or something similar.

Finke explained that process, which could be built into the ordinance.

Crosby believed that the ordinance review should be placed on a fast track and completed prior to this request being considered. He questioned if there are many violations in the City in which a homeowner has more than two dogs, but does not have a kennel license.

Belland confirmed that the current ordinance allows two dogs and believed that several homeowners are in violation of that.

Hannah Buckley, 1822 Morgan Road, stated that she also has an application into the City for a kennel license. She has five permanent dogs and fosters other dogs for a rescue organization. She also noted that she does not fit into the commercial or residential areas. She was in favor of animals being spayed. She stated that she has ten acres and believed that her application would be reviewed on the 17<sup>th</sup>.

Jean Neumann stated that in regard to spaying the small dogs, there is risk for the female dogs because of their small size.

Crosby reviewed the items he believed should be reviewed to formulate animal regulations.

Bruce Neumann stated that he had contacted a lawyer, whom he paid \$500 for services to review the current ordinance and determine if this kennel license could be issued. The lawyer did not see any reason this license could not be issued at this time.

Jean Neumann questioned what would happen if they were to bring the dogs home before the ordinance is revised.

Crosby stated the Council could not tell him the violations that would occur.

Jean Neumann stated the police came through her home to determine if more than two dogs were living in the home and questioned if that is done in other homes in Medina.

Hannah Buckley stated the police also came through her home to ensure that she only had two dogs. She stated that some of the dogs had to be put down because there was no place for them to go. She commented that she is also paying boarding costs and questioned if a temporary kennel license could be issued at this time.

Batty provided his input on the situation and noted that a license could be issued tonight, but stated the ordinance should be drafted thoughtfully to address all the issues.

Belland stated there is a history here and believed it was three years ago that the Neumanns had come before the Council with a request for approximately 17 dogs. He noted the Council had given the homeowners a two year period to come into compliance and noted that after that time expired, this process began and the homeowners came into compliance.

Bruce Neumann stated that his dogs mean a lot to him and he went into the hospital after the last Council meetings in regard to his dogs. He stated that he happens to have 12 dogs at this time, but he would have that amount of dogs forever.

Hannah Buckley believed that the issue should not revolve around the number of dogs, but more the care those dogs receive.

*Moved by Weir, seconded by Martinson, to table the request by Jean and Bruce Neumann for a kennel license until the animal regulation ordinance can be reviewed and amended. **Motion passed unanimously.***

**H. Limitation on Keeping of Animals – Proposed changes to City Code Section 330.07**

Cooney explained that two private kennel requests had brought forward issues with the current City Code in regard to the keeping of animals. He provided the legal context for the issue and reviewed potential changes to the ordinance. He reviewed the potential creation of an administrative approval process for private kennel license applications and potential changes to the City Council approval process for private kennel license applications. He noted that these items are merely a starting point and further research would need to be done.

Weir suggested that staff review the possibility that miniature dogs be considered as well in regard to the total number limit. She suggested that weight possibly be considered as a measure as well.

*Moved by Weir, seconded by Martinson, to authorize staff to prepare an ordinance amending the City's regulations regarding animal limitation and private kennel licensing. **Motion passed unanimously.***

**I. Resolution Thanking Staff Volunteers Who Assisted with Clean-Up Day**

*Moved by Weir, seconded by Pederson, to direct staff to prepare a resolution thanking staff volunteers who assisted with Clean-Up Day. **Motion passed unanimously.***

**IX. CITY ADMINISTRATOR REPORT**

**A. Temporary Outdoor Sales Event Regulations**

Adams stated that Finke prepared a memo which addressed the issue raised at the business forum in regard to temporary outdoor sales event regulations. He provided comparison information to the regulations of neighboring communities. He noted that if the Council wishes to amend the ordinance, they should direct staff to prepare that information.

Pederson stated that he believed the regulations should be amended to allow for 60 days in total, which could be conducted in two events.

Crosby stated that he was in agreement with 60 days as well.

Weir also was in agreement with 60 days.

*Moved by Weir, seconded by Martinson, to direct staff to prepare an ordinance amending the City's regulations for temporary outdoor sales event. **Motion passed unanimously.***

**B. Economic Development Policy Discussion**

Adams advised that this policy would allow deferred fees up to three years and noted that details could be worked out. He advised that staff would prepare an economic development policy pertaining to City fee deferrals.

**X. MAYOR & CITY COUNCIL REPORTS**

Crosby stated that he prepared a response to a resident on whether the City requires a full-time City Administrator and provided a copy of his response to the Council. He stated that the City received 14 applications for the Interim City Administrator position and noted that he and Weir will bring that total down to five or six, which will be reviewed by the Council. He advised that he received a communication from the League of Minnesota Cities for service to the League Board and League Foundation Board and noted that interested parties should contact that organization. He stated that he and Weir had discussed whether to submit Adams for a leadership award and suggested that item be added to the agenda for the meeting on May 11<sup>th</sup>. He reported that the reception for Adams would be held on May 24<sup>th</sup>.

**XI. APPROVAL TO PAY THE BILLS**

*Moved by Weir, seconded by Pederson, to approve the bills, EFT 001121-001137 for \$36,450.75 and order check numbers 036820-036862 for \$208,810.79, and payroll EFT 503468-503494 for \$43,799.31. **Motion passed unanimously.***

**XII. ADJOURN**

*Moved by Weir, seconded by Pederson, to adjourn the meeting at 11:05 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