

## MEDINA CITY COUNCIL MEETING MINUTES OF MAY 21, 2013

The City Council of Medina, Minnesota met in regular session on May 21, 2013 at 7:00 p.m. in the City Hall Chambers. Acting Mayor Anderson presided.

### I. ROLL CALL

**Members present:** Pederson, Martin, Martinson, and Anderson.

**Members absent:** Weir.

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Public Works Director Steve Scherer, City Administrator Scott Johnson, and Recording Secretary Amanda Staple.

### II. PLEDGE OF ALLEGIANCE

### III. ADDITIONS TO THE AGENDA

*The agenda was accepted as presented.*

### IV. APPROVAL OF MINUTES

#### A. Approval of the May 7, 2013 Regular City Council Meeting Minutes

It was noted on page six, line 18, it should state, "She ~~questioned~~ asked..." On page six, line 21, it should state, "...noted that the ~~pond~~ Outlot F..." On page six, line 22, it should state, "...that ~~this~~ the development..." On page seven, line 44, it should state, "She Weir..." On page 8, line 30, it should state, "...noise complaints..."

*Moved by Pederson, seconded by Martinson, to approve the May 7, 2013 regular City Council meeting minutes as amended. **Motion passed unanimously.***

#### B. Approval of the May 15, 2013 Special City Council Meeting Minutes

*Moved by Martinson, seconded by Pederson, to approve the May 15, 2013 special City Council meeting minutes as presented. **Motion passed unanimously.***

### V. CONSENT AGENDA

#### A. Accept 2012 Annual Report

#### B. Approve Overlay Services Agreement with Omann Brothers

#### C. Approve Special Assessment Waiver Agreement Relating to Cottonwood Trail

#### ~~D. Amend 96.00 Purchasing Policy~~

#### E. Resolution No. 2013-34 Amending 2013 Appointments and Designations to Various City Services, Authorities, Commissions and Agencies

#### F. Resolution No. 2013-35 Accepting Kathleen Martin's Resignation from the Planning Commission

#### G. Resolution No. 2013-36 Receiving Feasibility Report and Calling for Public Hearing on Willowbrook Drive Improvement Project and Levying Special Assessments for Same

- H. ~~Resolution No. 2013-37 Approving a Preliminary Plat for a Subdivision to be Known as "Reserve of Medina"~~
- I. Ordinance No. 549 Amending the Official Zoning Map to Rezone the Property Being Subdivided as "Reserve of Medina"
- J. Resolution No. 2013-38 Authorizing Publication of the Ordinance Amending the Official Zoning Map to Rezone the Property Being Subdivided as "Reserve of Medina" by Title and Summary

Johnson requested that Item D, Amend 96.00 Purchasing Policy, be pulled from the agenda for further staff work and noted that the item would be brought forward to a future Council meeting. He also asked that Item H, Resolution Approving a Preliminary Plat for a Subdivision to be Known as "Reserve of Medina," be pulled from the Consent Agenda for further discussion.

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

- H. Resolution No. 2013-37 Approving a Preliminary Plat for a Subdivision to be Known as "Reserve of Medina"

Finke referenced condition seven and stated that he misinterpreted the City Engineer. He reviewed the proposed amendment to the language for that condition and recommended approval as amended.

*Moved by Martinson, seconded by Martin, to approve Resolution No. 2013-37 Approving a Preliminary Plat for a Subdivision to be Known as "Reserve of Medina" as amended. **Motion passed unanimously.***

## VI. COMMENTS

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

No comments made.

### B. Park Commission

Anderson reported that prior to the regular meeting tonight the Council met with the Park Commission to review the draft Master Parks and Trails Plan that the Commission has been working on.

### C. Planning Commission

Planning Commissioner Nolan reported that the Planning Commission met the previous week to hold a public hearing for a requested variance from the setback of the ordinary high water mark on Lake Independence and provided additional comment, noting that the Commission recommended approval of the request with a vote of 3-1. He advised that the Commission held another public hearing regarding the Truxtun Morrison subdivision request, which is on the Council's agenda tonight, and noted that while there was discussion regarding the width of the road the Commission recommended unanimous approval of the request. He advised that the Commission held another public hearing regarding an Ordinance amendment to Chapter Eight of the City Code, which he believed to be mostly a housekeeping issue and noted that the Commission also recommended unanimous approval of that request.

## VII. NEW BUSINESS

**A. Willow Drive Improvement Project**

Scherer reported that a neighborhood meeting was held the previous week to discuss the project in detail but noted that he would briefly review the details tonight as well. He provided a brief history of Willow Drive South, beginning in 2007 when the roadway was identified as a candidate for reconstruction by the City Engineer and advised that at this time staff recommends the mill and overlay scheduled for 2014 occur during 2013 to preserve and protect the roadway. He summarized the improvements that would occur as a part of the mill and overlay and provided an updated cost estimate for the project. He asked that the Council accept the Feasibility Report and call for a public hearing.

Martinson recognized the savings received from the original estimate and asked if trails could be constructed as a part of the project.

Scherer explained that trails could not be done without completing a reconstruction.

**1. Resolution No. 2013-39 Receiving Feasibility Report and Calling for Public Hearing on Willow Drive Improvement Project and Levying Special Assessments for Same**

*Moved by Pederson, seconded by Martinson, to approve Resolution No. 2013-39 Receiving Feasibility Report and calling for Public Hearing on Willow Drive Improvement Project and levying special assessments for same at the June 18, 2013 City Council meeting. **Motion passed unanimously.***

**B. T. Truxtun Morrison – Lot Split Request at 1525 Hunter Drive**

Martin recused herself from the discussion noting that the Morrisons are her neighbors and she has discussed the matter with them.

Batty confirmed that the Council would still have a quorum, but noted that three affirmative votes would still be needed to approve the request.

Finke presented the request for the Morrison subdivision request, identifying the parcel on an aerial map and then a sketch of the proposed lot split. He reviewed the existing private road access and noted that while the applicant originally requested a variance in regard to the road width, that variance request has since been withdrawn by the applicant. He confirmed that the width of the private road would need to be extended from the existing 18 feet to 20 feet, as required by City Code, as a condition of approval within the subdivision request. He advised that the Park Commission recommended cash for park dedication as no parks or trails had been identified in this area. He stated that the applicant has requested additional time to finalize the subdivision. He reported that the Planning Commission did recommend approval of the request subject to the conditions listed in the Council packet.

Truxtun Morrison, applicant, stated that currently there is too much house and too much property for his family in his current location. He explained that it will take some time for him to list and sell his property, which is why he has asked for the additional time to file the subdivision request. He also discussed the requirement of the road repair and improvement and noted that he would like to delay that until the time that occupancy takes place.

Finke noted that the last request would require a mini-division agreement, but did not think that would be a problem.

Batty also believed that an agreement of that nature could be developed.

*Moved by Pederson, seconded by Martinson, to direct staff to prepare a Resolution of approval with the noted conditions. **Motion passed unanimously.***

**C. Dan and Jill Johnson – 2505 Willow Drive – Lot Combination;  
Comprehensive Plan Amendment; Zoning Map Amendment from RR to AG**

Finke stated that this matter had been discussed previously by the Council in February and summarized Council actions that took place at that time. He identified the three properties in existence today and noted that the surveys for those sites were included in the Council packet. He noted that the combined three lots would exceed the standards of both the RR and AG zoning districts, but explained that the combination is not in conflict with any City policies, objectives, or plans. He noted that on past combinations the City has required drainage and utility easements along the perimeter of newly combined lots, also over wetland, but noted that the applicant does not wish to grant these easements. He advised that the proposed Resolution would not require those easements. He explained that once the lot combination is complete, the Council would be asked to complete the actions they directed back in February that could not be done until this condition of approval was complete.

Dan Johnson, applicant, stated that although he agrees with the policy, he was curious as to why he would be required to give up additional easements when the critical easements are already provided.

Martinson questioned if there is a need for the City to possess easements in those areas.

Finke explained that because this is a rural property there is not as much need, but advised that there are already easements along much of the perimeter because of previous development.

Martin stated that she also lives in a rural area and provided an example of an easement along her property that was used to bring natural gas to a neighbor. She stated that while there may not be a need for the easements at this time, the easements could provide a future opportunity. She stated that she would be in favor of the City obtaining those easements as she did not believe there would be a negative effect to the property.

Dan Johnson stated that he is giving up the right to build on the two other lots and questioned why he would be asked to give up easements when he is already giving up the right to build. Anderson expressed concern about the City losing its easements.

Batty explained the normal City process for obtaining easements, but confirmed that this would not be a vacation of any easements in existence. He explained that the acquisition of easements is critical at the point of subdivision, and noted that this action would preclude the right to develop the two other properties.

Martinson confirmed that easements could be obtained in the future if a request for a subdivision of the property were requested.

1. **Resolution No. 2013-40 Approving a Lot Combination for Property Located at and Adjacent to 2505 Willow Drive**

*Moved by Martinson, seconded by Pederson, to approve Resolution No. 2013-40 Approving a Lot Combination for Property Located at and Adjacent to 2505 Willow Drive. Motion passed 3-1(Martin opposed).*

2. **Resolution No. 2013-41 Adopting a Comprehensive Plan Amendment Regarding the Future Land Use of 2505 Willow Drive**

*Moved by Martinson, seconded by Pederson, to approve Resolution No. 2013-41 Adopting a Comprehensive Plan Amendment Regarding the Future Land Use of 2505 Willow Drive. Motion passed unanimously.*

3. **Ordinance No. 550 Amending the Official Zoning Map to Rezone 2505 Willow Drive to the Agricultural Preservation (AG) Zoning District**

*Moved by Martin, seconded by Pederson, to approve Ordinance No. 550 Amending the Official Zoning Map to Rezone 2505 Willow Drive to the Agricultural Preservation (AG) Zoning District. Motion passed unanimously.*

4. **Resolution No. 2013-42 Authorizing Publication of Ordinance by Title and Summary**

*Moved by Anderson, seconded by Pederson, to approve Resolution No. 2013-42 Authorizing Publication of Ordinance by Title and Summary. Motion passed unanimously.*

Johnson referenced the AG zoning district and confirmed that the Council would like to further discuss the City policy regarding Agricultural Preserve at a future work session this fall.

Dan Johnson thanked Finke for all his assistance during the process.

**D. Willowbrook Drive Improvement Project**

Johnson reported that this project impacts six properties in Medina, as well as properties in Orono.

Scherer reported that a neighborhood meeting was held for this project and he has not heard anything but support for the project. He stated that the work is well overdue and City staff worked with Orono staff to develop a Joint Powers Agreement for the project.

Batty noted that two items require a public hearing and advised that the two items could be completed under one hearing.

Anderson opened the public hearing at 8:00 p.m.

Robert Thompson, 1330 Willowbrook Drive, stated he started a petition about two years ago to improve the road. He also identified a neighbor in attendance that lives at 1300 Willowbrook Drive. He thanked Scherer for his assistance throughout this process and his thorough explanation.

Anderson closed the public hearing at 8:02 p.m.

1. **Resolution No. 2013-43 Approving Plans and Specifications and Ordering Project – Public Hearing**

*Moved by Martinson, seconded by Pederson, to approve Resolution No. 2013-43 Approving Plans and Specifications and Ordering the Willowbrook Drive Overlay Project. Motion passed unanimously.*

2. **Resolution No. 2013-44 Adopting Assessment Roll – Public Hearing**

Johnson stated that the assessment is proposed at 22 percent and advised that in the past the assessment rate has been dropped to 20 percent by the City Council.

Batty explained that there is a requirement that if you are going to sell 429 Bonds, public debt, that in order for those to be tax exempt you must assess at 20 percent. He explained that his recommendation is to give a margin of wiggle room in the case an assessment is appealed, in order to not go below 20 percent. He explained that in this case there are no bonds being sold, so the 20 percent rule does not apply.

Scherer explained that Willowbrook is assessed at 50 percent. He did not recommend that the assessment rate be lowered. He confirmed that the dollar amounts included in the report were correct, but the column heading assessment spreadsheet should have been labeled 50 percent rather than 22 percent.

Batty confirmed that the issue then becomes moot and the proposed assessment rate of 50 percent follows the City policy.

*Moved by Anderson, seconded by Martin, to approve Resolution No. 2013-44 Adopting Assessment Roll for the Willowbrook Drive Road Improvement Project. Motion passed unanimously.*

E. **Willowbrook Drive Joint Powers Agreement between the City of Medina and the City of Orono**

*Moved by Martinson, seconded by Pederson, to approve the Joint Powers Agreement by and between the City of Medina and the City of Orono. Motion passed unanimously.*

F. **Resolution Authorizing the Waiver of Certain Development Fees for an Affordable Housing Project by Dominion**

Johnson stated that Finke has been working closely with Dominion on their request for a fee waiver for sewer and water connection. He explained that TIF cannot be used to reimburse park dedication fees.

Finke explained that if the Council wished to waive additional fees in lieu of the park dedication fees, which cannot be reimbursed through TIF, there are other city fees that could be looked at.

Martinson confirmed that the total for fee waivers would now be \$276,000 for the sewer and water connections.

Nick Anderson, Dominion, explained that the reason the fee waivers are requested is to make the project financially viable and to give additional points on the applications for grant funds to construct the project. He confirmed that Dominion is not requesting additional waivers at this time because even with the subtraction of the park dedication fee waiver, Dominion would still receive six points. He explained that in order to get to

eight points, which is the next category, the fee waiver amount would need to double. He explained that for that reason they are not asking for additional fee waivers as they do not believe the next point level could be reached.

Finke explained that he did not believe that park dedication fees were going to be requested for this project anyway because of the type of project.

Nick Anderson stated that mentioning that the park dedication fees would not be required within the Resolution may assist Dominion in their request for grant funding.

Batty explained the action that would be required tonight and also believed that the Council should further discuss an inner fund loan resolution for TIF reimbursement in the future. He also mentioned items that will come forward for the Council at an upcoming EDA meeting in June.

Finke believed that this item could be delayed until the June 4<sup>th</sup> meeting and would not affect the applicant's funding application.

Nick Anderson confirmed that Dominion will be submitting their application on June 18<sup>th</sup> and a delay to June 4<sup>th</sup> would not interfere with their request or timeline.

Martin stated that she did not believe that the City should charge park dedication on this project.

Batty stated that he had mixed feelings about including the language about park dedication and believed that staff should be allowed additional time to amend that language. He did not believe park dedication should be included because he did not think it would apply under State law; explaining that he would not want the City to state they were waiving fees that may not exist.

*Moved by Pederson, seconded by Martinson, to table the Resolution waiving up to \$388,000 in development fees for the Dominion project to the June 4<sup>th</sup> meeting and direct staff to amend the language as discussed. **Motion passed unanimously.***

Johnson confirmed the consensus to lower the fee waiver amount from \$388,000 to \$300,000 and for staff to investigate the language regarding park dedication.

## **VIII. OLD BUSINESS**

### **A. Fields of Medina West Storm Sewer Improvement Tax District – Public Hearing**

Johnson advised that this would be the continuation of the public hearing from the previous meeting.

Anderson opened the public hearing at 8:23 p.m.

No comments made.

Anderson closed the public hearing at 8:23 p.m.

#### **1. Ordinance No. 551 Establishing Fields of Medina West Storm Sewer**

**Improvement Tax District**

*Moved by Martin, seconded by Pederson, to approve Ordinance No. 551 Establishing Fields of Medina West Storm Sewer Improvement Tax District. **Motion passed unanimously.***

**2. Resolution No. 2013-45 Authorizing Publication of Ordinance by Title and Summary**

*Moved by Martinson, seconded by Martin, to approve Resolution No. 2013-45 Authorizing Publication of Ordinance by Title and Summary. **Motion passed unanimously.***

Martin referenced the Development Agreement for the Fields of Medina and asked for additional information regarding the possibility to create a special taxing district for trails.

Batty stated that could not be done and provided further clarification, explaining that the process is unique to storm sewer taxing districts and not other general improvement items.

Martin questioned if there is a method to hold the HOA responsible for the ongoing maintenance for trails constructed in the right-of-way.

Batty explained that those are public improvements and explained that storm sewer improvements are not considered “public.” He explained that the City could move to the decision that storm sewer improvements are public and would then need to create a stormwater utility fund.

**IX. CITY ADMINISTRATOR REPORT**

**A. Resident Comment**

Fred Webber, 100 Clydesdale Trail, stated that the Gramercy is converting from a cooperative to a condominium. He thanked Johnson for representing the concerns of the Gramercy community at a recent Plymouth meeting. He also thanked Finke for all his work with the community over the past eight years.

Johnson noted that the Plymouth City Council will review the Creekside Hills Preliminary Plat at the May 28<sup>th</sup> meeting and asked that all concerned residents attend.

**X. MAYOR & CITY COUNCIL REPORTS**

No comments made.

**XI. APPROVAL TO PAY THE BILLS**

*Moved by Pederson, seconded by Martin, to approve the bills, EFT 002096E-002115E for \$48,036.49 and order check numbers 039667-039731 for \$165,984.64 and payroll EFT 504936-504965 for \$45,404.59. **Motion passed unanimously.***

**XII. CLOSED SESSION: EASEMENT ACQUISITIONS**

Anderson recessed the meeting to closed session to discuss easement acquisition at 8:31 p.m.

The meeting was reconvened to open session at 9:03 p.m.

**XIII. ADJOURN**

*Moved by Pederson, seconded by Martinson, to adjourn the meeting at 9:04 p.m.*

***Motion passed unanimously.***

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John Anderson, Acting Mayor

Attest:

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Scott Johnson, City Administrator