

## **MEDINA CITY COUNCIL MEETING MINUTES OF JULY 21, 2015**

The City Council of Medina, Minnesota met in regular session on July 21, 2015 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

### **I. ROLL CALL**

**Members present:** Anderson, Cousineau, Pederson, Martin, and Mitchell.

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Tom Kellogg, City Planner Dusty Finke, Public Works Director Steve Scherer, and Public Safety Director Ed Belland.

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

### **III. ADDITIONS TO THE AGENDA (7:01 p.m.)**

The agenda was approved as presented.

### **IV. APPROVAL OF MINUTES (7:01 p.m.)**

#### **A. Approval of the July 7, 2015 Regular City Council Meeting Minutes**

It was noted on page two, line 31, it should state, "...contract and percentage of interest increase..." On page two, line 30, it should state, "...different reasons for each outage but believed we think that perhaps the outages..." On page five, line 23, it should state, "Mitchell educated the City Council about serial meetings under the Minnesota Open Meeting Law and encouraged Council members to send questions or comments to the City Administrator." On page five, line 11, it should state, "She stated that the more the any Council is involved involvement in hearsay and issue raising innuendo the more challenging that is to undermines the confidence that of those departments..." On page five, line 24, it should state, "...Johnson,...". On page five, line 27, it should state, "...or nor..." On page five, line 30, it should state, "...consolidation,...". On page six, line 24, it should state, "...six weeks months..."

*Moved by Anderson, seconded by Pederson, to approve the July 7, 2015 regular City Council meeting minutes as amended. Motion passed unanimously.*

### **V. CONSENT AGENDA (7:06 p.m.)**

- A. Award the Bid for the Well No. 9 Project to Mark J. Traut Wells, Inc.**
- B. Approve 2016 Pioneer-Sarah Creek Watershed Management Commission Budget**
- C. Approve Tree Trimming and Brush Grinding Services Agreement with Burnham Tree Experts**
- D. Approve Subwatershed Retrofit Cooperative Agreement for the Ardmore Lake Subwatershed with Hennepin County and Hakanson Anderson**
- E. Call for a Special City Council Meeting on Tuesday, September 1<sup>st</sup> at 6:00 p.m. for the 2016 Budget Open House**
- F. Ordinance No. 583 Amending the Medina Clydesdale Marketplace Planned Unit Development District for Goddard School**

- G. Resolution No. 2015-57 Authorizing Publication of the Ordinance Amending the Medina Clydesdale Marketplace Planned Unit Development District for Goddard School by Title and Summary**
- H. Resolution No. 2015-58 Approving Site Plan Review for Construction of Goddard School at 345 Clydesdale Trail**
- I. Approve Development Agreement by and Between the City of Medina and P J Norman, LLC**

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

## **VI. COMMENTS (7:08 p.m.)**

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

There were none.

### **B. Park Commission**

Scherer reported that the Park Commission met the previous week to discuss Stonegate properties and recommended obtaining a turf trail easement that would run on the north side near Deerhill to ultimately connect the old horse trail to Baker Park Reserve. He provided additional details on the easement to the north and noted that a recommendation was not finalized regarding park dedication and whether a percentage of the open space should credit towards the park dedication. He stated that the Commission also reviewed the CIP specific to the parks.

### **C. Planning Commission**

Planning Commissioner White reported that the Planning Commission met the previous week and considered four items. She provided an update on the Stonegate public hearing and reported that the Commission recommended denial of the plan as they did not feel the plan sufficiently met the goals of the conservation design ordinance. She stated that the Commission also held a public hearing to consider an amendment to City Code regarding ground mounted solar equipment and recommended approval of the ordinance amendment, which would allow ground mounted solar equipment on properties of five acres or more in the rural residential zoning district. She stated that the Commission held another public hearing to consider an amendment to City Code that would change the upland wetland buffer setbacks for decks from 15 feet to five feet and advised that the Commission recommended denial of that request. She stated that the Commission held one additional public hearing to consider the site plan review process and reported that the Commission recommended approval of an amendment, which would allow administrative review for certain items and reviewed the proposed list.

## **VII. PRESENTATIONS**

### **A. Resolution No. 2015-59 Recognizing John Gleason for Five Years of Service to the City of Medina (7:13 p.m.)**

Mitchell stated that the Council is thrilled to have and retain the amazing staff members that they have and recognized John Gleason. He read aloud the resolution thanking John Gleason for his five years of service to the City through the Public Works Department.

Scherer stated that Gleason does site inspections for the City and does a great job for the City. He thanked him for his service and stated that he is proud to have him as a member of the Public Works Department.

*Moved by Martin, seconded by Cousineau, to adopt Resolution No. 2015-59 recognizing John Gleason for five years of service to the City of Medina. **Motion passed unanimously.***

**B. Mike Kramer, Xcel Energy Update on Power Outages (7:17 p.m.)**

Scott Johnson, Xcel Energy, introduced Mike Kramer who explained the power outages and Xcel's plan to fix that issue.

Mike Kramer, Xcel Energy, distributed maps to the Council and stated that there have been four outages that have affected customers north of Hamel Road beginning June 7<sup>th</sup>. He provided detail on how the system is set up in that area. He provided additional information on the events, noting that the June 7<sup>th</sup> event was caused by a tree falling as was the event on July 13<sup>th</sup>. He stated that additional fuses have been added in that area following the July 13<sup>th</sup> event. He stated that the June 21<sup>st</sup> and June 28<sup>th</sup> events occurred on Sundays and were caused by failing lightning arresters. He stated that infrared testing was completed and the failing arresters will be replaced. He noted that there was a decent record of service before the events in June and July occurred, noting that there was only one outage in 2014, which was due to a customer making contact with an overhead line. He stated that the outages in 2015 are not typical and this has been a high priority.

Scott Johnson, Xcel Energy, stated that this is a reliability issue and is not an issue of capacity. He stated that the Hollydale issue in Plymouth is an issue of capacity and noted that this issue is not the same.

Anderson asked if Medina is well covered in terms of capacity.

Kramer stated that he does not have a concern for the feeders that supply the City. He stated that he works with planning engineers that plan for capacity. He encouraged anyone that wants to add load to the Xcel system to contact Xcel so that they can anticipate that addition.

Scott Johnson, Xcel Energy, stated that Medina will be indirectly affected as the City has infrastructure that can help to solve the Hollydale issue.

Scherer questioned the policy on cutting trees, noting that he has called Xcel in the past to report trees that are leaning over the lines and he has been brushed off.

Scott Johnson, Xcel Energy, stated that this area was trimmed in 2014 and advised that there is a five-year trimming cycle. He stated that Scherer can call him directly and he will get the correct person to resolve the situation.

Mitchell referenced the second set of outages, which were due to failing equipment and asked if the equipment was old and planned for replacement or was failing for another reason.

Kramer stated that he does now have data to identify which equipment needs to be replaced. He stated that once the equipment is removed he will be able to inspect the equipment to determine what the problem was that caused the failure.

Mitchell asked Kramer to email City Administrator Johnson with the results.

Pederson stated that the problem has been constant for about five years, with outages occurring in the summer months.

Kramer stated that he reviewed the outage history in 2014 and there was only one outage caused by customer contact. He stated that in 2013 he noticed three outages that were caused by storm damage.

Pederson stated that he has a business on the corner of Highway 101 and 55 and there are several outages at that intersection.

Kramer stated that he can only use the history recorded.

Cousineau received confirmation that the lightning arrester failure affected more than just the area in Medina. She suggested that the history be reviewed further back through 1999, as the outages have been significant through that time period.

Kramer stated that he always looks back two years to review the most current data.

Fred Webber, 100 Clydesdale Trail, thanked the Council for the opportunity to speak. He stated that he made comments at the July 7<sup>th</sup> Council meeting regarding Xcel Energy's frequent power outages and believed there have been three to four events each year for the past ten years. He recognized the demand there is for service on Xcel Energy workers throughout the state. He stated that it appears that the growth and demand in this area appears to have surprised Xcel, which should not have. He stated that there have been a number of power outages over the past ten years, which have affected customers and businesses alike. He stated that he has spoken to Medina Ridge Condominium, Medina Highlands, the Holiday Station Store, Target, Jimmy's Pizza, Medina Entertainment Center, Highway 55 Rental, and various other businesses in Uptown Hamel which have all had issues and losses due to the power failures. He stated that he received a letter on July 9<sup>th</sup> from Xcel and read excerpts aloud. He stated that while it seems that there are good reasons for each outage, when reviewing this on a ten-year basis that is not reasonable. He stated that the homes and businesses have had to throw out food. He noted that his facility is a senior housing building and therefore when the power is out and the elevators are not working the fire department has to be called to assist those that need to get to a lower floor and that can cause additional delays in a medical situation.

Kim Murrin, 290 Cherry Hill Trail, stated that she has concerns with the issue of safety as well as the expenses that businesses incur when the power outages occur and food needs to be thrown out. She asked why the outages occur in this area more frequent than other areas of Medina. She stated that there were additional outages that occurred over the weekend, which she noted may have been weather related. She asked and received confirmation that additional fuses have been installed and the arresters have or are being replaced. She received confirmation that the issue is not related to capacity right now. She referenced the comment that the Medina resources may be used to

offset the problems occurring at Hollydale and questioned if that would take away Medina resources.

Fernando Vivanco, 4508 Bluebell Trail S, referenced the comment from Xcel that the City is well covered and the issue is not capacity related. He questioned if that comment is in conflict with the statement made by Xcel one year ago that additional capacity would be needed in the area to support continued development. He stated that the recent power outages are a concern among many residents that the development is outpacing the infrastructure available and asked the Council to consider that when making decisions regarding additional potential development.

Paul Raskob, Vice President of Medina Entertainment Center, thanked the Council and Xcel for this meeting. He stated that after several outages he called Xcel and was finally able to reach a person. He stated that the suggestion made by Xcel staff was to purchase a generator. He stated that with the size of his building he is not able to afford a generator that would be sufficient and thought the comment made by Xcel staff was rude. He stated that the Medina Entertainment Center is a three-phase building, which means that when there is an outage his full building does not always lose power and therefore his equipment is burning up. He noted that during a recent outage there was almost a fire on the roof because of equipment damage. He stated that there are lost sales and spoiled food that occur during outages. He stated that Sunday is family night and he has to turn away business when the power is out because it is not safe. He noted that his staff's wages are mostly tip generated and cannot support their families when the outages cause a loss in business. He hoped that the issue could be resolved because it is impossible to run a business without power.

Todd Leadens, 210 Clydesdale Trail, owner of Jimmy's Pizza, echoed the comments of Raskob in regard to phased power. He further explained how an outage in one phase of power affects the other two phases, which fight each other without the missing link. He noted that if all the phases went out that would be safer. He stated that he is a restaurant owner and a licensed electrician. He stated that the outages are causing losses to the business and are not safe.

Kramer stated that it is the customer's responsibility to protect itself from single phasing. He stated that Xcel cannot protect against single phasing although he recognized that there are additional challenges in a three-phased system. He stated that right now the issues in Medina are not capacity issues but agreed that there are capacity needs for this region in the future. He stated that the planning engineer has been working for the past five years to address that concern. He stated that while that is a concern for the future, he was asked to address the recent power outages, which were not an issue of capacity. He stated that he began in this position with Xcel eight years ago and cannot speak for issues in the past. He recognized the pain and concern of the residents and stated that his responsibility is the equipment and the system, noting that the planning engineers will continue to work on the capacity issues for the future.

Scott Johnson, Xcel Energy, stated that Xcel held its hearing at the Medina Ballroom in the past and will meet again this fall to discuss the capacity issues. He noted that there will be notification mailed before the meeting this fall to discuss the capacity issues. He thanked Mitchell and the Council for their time.

Kramer stated that from personal experience with the planning staff they are very serious about the capacity of the system, although it may not appear that way to residents. He hoped that residents realize that he cares about reliability, noting that he is always trying to solve and determine the cause of outages.

Martin asked if it would help if there was an open line of communication between Xcel and the residents and businesses, as it appears there is a disconnect between the outages reported by residents and the records that Xcel has.

Kramer stated that he would be open to providing his business line, providing that he would not receive constant calls. He stated that he is the only technical person dealing with 120,000 customers.

Anderson suggested that email would be a better method of communication.

Scott Johnson, Xcel Energy, noted that email would be better as it could be done on a 24-hour basis. He stated that the residents see the outage but they do not see the things that occur behind the scenes, noting that safety is the number one concern.

Martin stated that perhaps Webber can continue as the spokesperson for the groups he listed.

Webber confirmed that he would ask the businesses and residents he listed to funnel requests through him that he could forward to Kramer.

Mitchell appreciated the comments made by residents and businesses as well as Xcel. He asked Xcel to report to the City after outages so that information can be communicated with residents and businesses. He asked that residents communicate about outages in writing so that an appropriate record can be made.

**C. Senator Osmek Legislative Update (7:59 p.m.)**

Senator Osmek stated that he is the ranking member of the Energy and Environment Committee and noted that he would like Xcel to meet in his office in September to discuss Hollydale and Xcel's plan. He provided background information on himself and his career in politics. He provided an update on the recent special session activity and was disappointed that there was no tax relief provided to Minnesota residents. He stated that an additional session will soon be held to discuss bonding issues. He stated that a small cities fund was created in the special session and noted that additional funds have been designated to MSA as well. He stated that he was proud to have sponsored Colton's Bill, which was passed during the last session. He stated in the interim there is a Digital Equipment Repair Act that is being worked on and provided additional information on that. He stated that he would also be working to determine if a quiet zone can be gained in the Highway 55/County Road 116 area.

Anderson thanked Osmek for his assistance with the Highway 116 and 55 intersection.

Osmek stated that he is always surprised at the help that a phone call from himself can provide.

Mitchell thanked Osmek for his report and assistance.

Martin asked what Osmek's thoughts are regarding the construction along 494 and 394.

Osmek stated that he has received phone calls regarding the traffic issues on 494 and 394. He noted that while it is inconvenient, once it is done the roads will be great. He recognized the stress that completing all the work at once causes. He was hopeful that the traffic will get better. He encouraged the Council to reach out with any concerns.

## VIII. NEW BUSINESS

### A. Town Line Road North Improvement Project (8:10 p.m.)

Johnson stated that Scherer will walk through the Feasibility Report on the proposed project.

Scherer stated that this project would be an overlay for Town Line Road, noting that it had been projected to occur the following year, but had been moved up in order to work together with the City of Independence. He noted that additional cost savings were obtained through combining the projects. He highlighted aspects of the Feasibility Report and asked the Council to accept the Feasibility Report and call for the public hearing on the project and levying special assessments for the same.

Johnson stated that there is also a Joint Powers Agreement and noted that City Attorney Batty has reviewed the agreement and suggested some minor tweaks.

Anderson asked how many property owners there are.

Scherer explained that there are two residents and three lots and provided further explanation on how the assessment was determined.

Finke stated that Independence is paying half of the cost while Medina will pay half and explained how the assessment was determined.

Mitchell questioned the magnitude of difference in the assessment rates.

Finke stated that it could be four to five times higher if using another assessment calculation. He explained that Independence has a development on their side while Medina only has two properties.

Batty stated that the 20 percent assessment rate applies when selling debt and the City is not using bonds for this project so that rule does not apply.

Martin stated that she believed that the proposed assessment determination is fair and equitable.

Anderson also commended staff for using this method.

1. Resolution No. 2015-60 Receiving Feasibility Report and Calling for Public Hearings on Town Line Road Improvement Project and Levying Special Assessments for the Same.

*Moved by Martin, seconded by Anderson, to adopt Resolution No. 2015-60 receiving the Feasibility Report and calling for the public hearings on the Town Line Road North improvement project and levying special assessment for the same.*

*Further discussion: Mitchell noted that this is an unusual circumstance with a small number of properties on the Medina side of the road while there are a number of properties on the Independence side.*

***Motion passed unanimously.***

**2. Joint Powers Agreement Between the City of Independence and the City of Medina Regarding Town Line Road Repair Project**

*Moved by Martin, seconded by Anderson, to enter into the Joint Powers Agreement with the City of Independence for the Town Line Road North Improvement Project subject to the modifications suggested by Batty and Scherer. Motion passed unanimously.*

**B. Ordinance Regarding Site Plan Review Processes; Amending Chapter 8 of the City Code (8:20 p.m.)**

Finke stated that Commissioner White summarized this item well in her update. He noted that this arose from the discussion during the business forums in October 2014 and explained the current process of approval noting that these reviews have very little, if any, discretion. He stated that the Planning Commission recommended making various processes administrative. He noted that there was more discussion regarding parking lot expansions, specifically whether there would be more parking than desired by the City. He stated that there are no parking maximums under City Code today.

Martin noted that there are hardcover limitations that would limit how much pavement could be placed on a piece of property, which would cover that item.

Finke agreed that public comment would not have an impact on that item. He reviewed the items recommended to become an administrative review by the Planning Commission. He stated that Martin had suggested some changes to the recommended approval.

Martin referenced a provision that requires approval by City staff and suggested that instead be tied to the planning department, such as City Planner or City Planning Director.

Finke stated that "Zoning Administrator or their designee" could be used to be in line with the language in the Code.

Martin referenced the proposed change of use and suggested adding the language "that is not a conditional use".

Pederson stated that he is happy to see this action moving forward as it was brought forward through the business forums and suggested that an item be added to the City newsletter advertising this to the businesses to show that the City listened to their comments. He referenced the size of 1,000 square feet for an accessory structure and believed that to be too small.

Mitchell agreed that seems small.

Finke provided additional information regarding the language as proposed for accessory structures and building additions.

Anderson stated that perhaps it would make more sense to be consistent between the building addition and accessory structure, allowing the larger of the two (the percentage and maximum square footage).

Mitchell stated that perhaps it would make more sense to err on the conservative side as the ordinance could be amended in the future if needed.

Martin suggested adding a statement that a matter could come before the Council, and/or Planning Commission, at the discretion of the Zoning Administrator.

Finke noted that he could look at adding that statement with some rationale and bring back the Ordinance once amended with the changes suggested.

Johnson agreed that the matter could be tabled and the item could come back to the Council under the Old Business portion of the agenda in the future.

*Moved by Pederson, seconded by Martin, to table the Ordinance regarding Site Plan review processes, amending Chapter 8 of the City Code. **Motion passed unanimously.***

## IX. CITY ADMINISTRATOR REPORT

### A. Audio-Visual Upgrades to Council Chambers (8:32 p.m.)

Johnson stated that staff met with Tierney Brothers and the technology consultant to discuss possible upgrades. He provided an update on the proposed improvements that make the most sense and are the most cost efficient. He stated that staff would support option one with a cost of \$10,913.92, which is about \$4,000 less than option two.

Pederson asked for additional information on the possible integration of Ipads for Council use at the dais.

Johnson stated that personal Ipads or laptops can be synced to follow the presentations. He stated that the large screen would be the only screen. He stated that the ultimate plan would be for the Council to have individual monitors to follow along with the presentations.

Martin stated that she would prefer to bring her own Ipad to follow along with.

Johnson stated that if approved the upgrades could begin in the near future.

*Moved by Anderson, seconded by Pederson, to approve option one for the audio-visual upgrades to the Council Chambers. **Motion passed unanimously.***

Martin stated that if she brings her own laptop for the meeting would the information on her laptop then be subject to the Data Practices Act, noting that she has private client information on her device.

Johnson stated that he did share that concern and would review the issue with Batty. He stated that the best option may be to purchase tablets for the Council to use solely in the chambers.

Martin stated that individual monitors could also be used.

Johnson noted that the price for a tablet has been reduced and that may be the most cost efficient method.

**X. MAYOR & CITY COUNCIL REPORTS (8:37 p.m.)**

There were none.

**XI. APPROVAL TO PAY THE BILLS (8:37 p.m.)**

*Moved by Martin, seconded by Anderson, to approve the bills, EFT 003233E-003255E for \$70,198.56, order check numbers 43068-43121 for \$439,013.31, and payroll EFT 506531-506556 for \$47,682.24. Motion passed unanimously.*

**IX. CITY ADMINISTRATOR REPORT (Continued) (8:37 p.m.)**

Johnson noted that Night to Unite will be held on Tuesday, August 4<sup>th</sup> which is the night the regular Council meeting would be held therefore the Council meeting has been scheduled for Wednesday, August 5<sup>th</sup>.

**XII. CLOSED SESSION: Attorney-Client Privileged Discussion on Ongoing Litigation Matter Specifically Stonegate Farm, Inc. V. City of Medina, Pursuant to Minnesota Statute Section 13d.05, Subdivision 3(b)**

*Moved by Martin, seconded by Anderson, to adjourn the meeting to closed session at 8:39 p.m. to discuss litigation matters, specifically the case of Stonegate PRDC versus the City of Medina, the case in Hennepin County and the case in Federal District Court, pursuant to Minnesota Statute Section 13d.05, Subdivision 3(b). Motion passed unanimously.*

The meeting returned to open session at 9:55 p.m.

**XIII. ADJOURN**

*Moved by Anderson, seconded by Cousineau, to adjourn the meeting at 9:57 p.m. Motion passed unanimously.*

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Bob Mitchell, Mayor

Attest:

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Scott Johnson, City Administrator