

MEDINA CITY COUNCIL MEETING MINUTES OF SEPTEMBER 19, 2017

The City Council of Medina, Minnesota met in regular session on September 19, 2017 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 Jim Stremel, City Planner Dusty Finke, Finance Director Erin Barnhart, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, and Police Sergeant Jason Nelson.

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

III. ADDITIONS TO THE AGENDA (7:00 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:00 p.m.)

A. Approval of the September 5, 2017 Regular City Council Meeting Minutes

*Moved by Anderson, seconded by Cousineau, to approve the September 5, 2017 regular City Council meeting minutes as presented. **Motion passed unanimously.***

V. CONSENT AGENDA (7:01 p.m.)

A. Approve Final Pay Request to C & L Excavating, Inc. for Sioux Drive Turn Lane Improvement Project

B. Approve Amended and Restated Contract for Fire Protection between the City of Maple Plain and the City of Medina

C. Approve Warm-Up Pitchers Area Installation Services Agreement

D. Resolution No. 2017-67 Accepting Donation from the Hamel Athletic Club

E. Resolution No. 2017-68 Accepting Public Utilities within the Just for Kix Development

F. Resolution No. 2017-69 Approving Setback Variance from Right-of-Way for McDonald's at 822 Highway 55

G. Call for Special City Council Meeting on October 11, 2017 at 7:30 a.m. for the Fall Business Tours

H. Call for Special City Council Meeting on November 8, 2017 at 5:00 p.m. to Discuss the Comprehensive Plan and Public Comments

Johnson provided a summary of the items included on the consent agenda.

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

VI. COMMENTS (7:03 p.m.)

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Scherer reported that the Park Commission will meet the following night to consider the park dedication aspect of the Mark of Excellence Homes Concept Plan, the 2040 Comprehensive Plan and the Friends of the Park Program.

C. Planning Commission

Planning Commissioner DesLauriers reported that the Planning Commission met the previous week to consider a Concept Plan from Mark of Excellence for 94 twin homes. He stated that the major topic of discussion was the timing for the development as the staging period is different under the existing Comprehensive Plan and draft Comprehensive Plan. He stated that while the Commission is not opposed to the twin homes, the Commission would recommend less density and did not feel that the proposal met the qualifications for a PUD. He reported that the Commission also considered the requests related to the Woodlake Landfill, which has been on the agenda for the past two meetings. He stated that there has been a considerable amount of discussion regarding the proposed language that would change the zoning from an operating landfill to a closed landfill and regarding the areas of concern. He noted that direction was given to staff to contact the MPCA to gather more information on the groundwater and methane gas areas of concern and therefore the item was again tabled. He stated that the Commission also reviewed a proposal to increase the maximum allowed area for ground mounted solar equipment and noted that the Commission did support the increase. He stated that the Commission then also recommended approval of a residential CUP request for ground mounted solar equipment and two accessory buildings.

VII. PRESENTATIONS

A. 2018 Preliminary Budget & Tax Levy (7:08 p.m.)

Johnson noted that the City must adopt a preliminary budget and levy by September 30th of each year.

Barnhart stated that the budget open house occurred prior to the regular Council meeting tonight. She stated that staff is proposing a balanced budget for the general fund with an increase of \$116,902 from 2017. She reviewed the proposed increases for the general fund and debt levies and reviewed the items that would account for those increases. She reviewed the proposed staffing changes and cost of living increases, noting that staff would continue to review comparable information from other municipalities. She provided additional details on the payment schedules for the debt services levies. She stated that the preliminary market value information from Hennepin County shows an increase of 5.6 percent to the market values and a 5.6 percent change in the tax capacity for the City. She stated that the overall tax rate would decrease 3.4 percent from the 2017 rate, which is directly related to the market value increases. She stated that the City continues to operate with healthy fund balances and noted that it is anticipated that the City will again have a budget surplus at the end of 2017 because of the permit revenue. She stated that the City continues to operate with the five-year Capital Improvement Plan, which allows the City to budget for upcoming needs. She stated that the City does not receive local government aid but does receive some funds

from the State for police and fire, recycling, and Municipal State Aid (MSA) road maintenance. She stated that there are three road projects proposed for 2018.

Scherer provided a summary of the proposed road projects, noting that some additional dead-end projects may be added before the final budget is adopted in December.

Barnhart noted that because those projects are not funded through the general fund, those additional projects would not have an impact on the figures adopted tonight.

Mitchell noted that once this budget is adopted, staff will continue to gather information and the budget can be lowered prior to final adoption but cannot be raised.

1. Resolution No. 2017-70 Approving Proposed Tax Levy for 2018

*Moved by Cousineau, seconded by Anderson, to adopt resolution no. 2017-70 approving the 2018 preliminary tax levy. **Motion passed unanimously.***

2. Resolution No. 2017-71 Approving Proposed General Fund Budget for 2018

*Moved by Cousineau, seconded by Pederson, to adopt resolution no. 2017-71 approving the 2018 preliminary general fund budget. **Motion passed unanimously.***

3. Resolution No. 2017-72 Reducing Debt Service Tax Levies for 2018

*Moved by Cousineau, seconded by Pederson, to adopt resolution no. 2017-72 reducing debt service tax levies for 2018. **Motion passed unanimously.***

4. Establish Public Discussion Date for Final 2018 Tax Levy and Budget

*Moved by Cousineau, seconded by Anderson, to establish the 2018 final tax levy and budget discussion for December 5, 2017 at 7:00 p.m. in City Hall. **Motion passed unanimously.***

Mitchell noted that there was a public open house prior to the regular meeting tonight. He welcomed additional comments that residents may have and noted that the final budget is scheduled to be presented at the December 5, 2017 City Council Meeting.

VIII. NEW BUSINESS

A. Excelsior Group LLC – PUD Concept Plan Review – 2120 and 2212 Chippewa Road (7:17 p.m.)

Martin recused herself from the discussion.

Finke stated that this is a PUD Concept Plan review and therefore only comments are requested and no formal action is required. He reviewed the proposed project location, which is guided for low density residential within the 2021-2025 staging period of the current Comprehensive Plan. He stated that the staging period allows for some flexibility to jump ahead two years of the staging period if enough points are gained through the review criteria. He stated that information was provided in the staff report regarding the current Comprehensive Plan as well as the draft Comprehensive Plan to provide the Council with the information necessary to review the request under both the existing and draft plans. He stated that the draft plan is out for formal review. He stated that the City has reviewed Concept Plans from this applicant a few times previously in the past year.

He reviewed the adjacent property uses and zoning. He stated that there are two housing products proposed, one similar to the typical low-density zoning district on the western portion of the property and more narrow lots proposed for the eastern portion of the property which provides additional space for open space and park property. He stated that if the narrow lots were going to be used, staff would recommend lowering the number of narrow lots to still meet the requirements of the R-1 zoning district. He reviewed the purpose of the PUD ordinance, noting that the Council would need to ensure that the application would meet those requirements in order to grant the PUD. He stated that the draft Comprehensive Plan is expected to be in place prior to the 2021 staging period and therefore staff believes that the Council should consider the draft Comprehensive Plan when reviewing this request. He noted that two-year flexibility would be allowed to the staging period, which could move the development to 2019. He stated that the applicant would propose to begin construction prior to that time but not issue certificates of occupancy until 2019. He noted that the draft Comprehensive Plan would actually delay the staging period further to the 2025 staging period. He stated that staff estimates the net density to be 2.3 units per acre, which falls within the allowed density range for the R-1 district. He stated that the standard R-1 development would fall closer to two units per acre and that is why the Planning Commission recommended lower density. He highlighted an area where the Planning Commission recommended lower density because of the neighboring rural residential zoning. He stated that the primary elements of discussion fall to transportation and infrastructure, as those elements would need to be in place in order to consider flexibility to the staging plan. He stated that there is only a single watermain connection west of Arrowhead Drive, which is a concern. He provided additional information on a watermain break that occurred this past summer. He stated that the City's water plan identifies a second connection which is not yet in place. He stated that the transportation plan identifies a future connection of Chippewa Drive which is also not in place at this time. He reviewed the other elements that are also considered when determining if a PUD would be appropriate. He stated that the Planning Commission held a public hearing the previous month and ultimately did not feel that the PUD criteria were met by this request and that the staging plan criteria were not met to allow for a jump ahead. He stated that if the developer is willing to make the infrastructure and transportation connections, that could qualify to meet the criteria. He stated that the applicant submitted a new Concept Plan today, which staff has not had the opportunity to review, in an attempt to meet the comments of the Planning Commission.

Ben Schmidt, Excelsior Group, apologized for the late submission of the updated Concept Plan and recognized that they would not receive a full review of that submission but noted that they were attempting to show that they are willing to incorporate the comments they have received thus far from the Planning and Park Commissions. He stated that they recognize that the critical factors must be met and believe that they have been. He stated that one comment that was heard from both Commissions was that the development would need a larger park, as identified in the Comprehensive Plan, and noted that revisions were made to the plan to include a larger park. He stated that they also heard concern with the lack of a second watermain and the future connection for Chippewa. He stated that this project would fill in the gaps between the Wealshire and Lunski projects for the watermain to loop that between those properties and back to Highway 55. He stated that the engineers for this project believe that the property could be served with existing gravity sewer and would appear to be the last project that could be fed by gravity. He stated that they therefore believe that the critical factors would be met and they would provide benefit from the park that would be provided and the

contributions they would make the watermain service. He stated that the Planning Commission requested to see what the development would look like with all 90-foot lots and provided an example of what the development could look like, which would create 63 lots. He stated that they then used the 63 lots with the layout they would prefer which includes both 90-foot lots and smaller villa style lots. He believed that the smaller villa style lots would provide a good transition from the neighboring Lunski and Wealshire developments. He stated that with the inclusion of a larger park, they further reduced the number of lots to 60. He provided additional details on the proposed park, which he would see as a hub for this side of Medina and incorporates the comments they received from the Park Commission along with trail connections to the neighboring developments. He provided additional details on the wetland mitigation and a wetland complex that could be created in conjunction with Wealshire. He provided additional details on the proposed layout of the development, noting that the proposed park would be easily accessed from Chippewa for those outside of the development. He provided additional information on the streetscape. He stated that they listened to the comments they heard thus far and attempted to incorporate those comments to make the proposed project better.

Anderson stated that the original park is 1.3 acres and asked the size of the new park.

Schmidt estimated about four and five acres but was unsure.

Finke stated that the buildable area appears to be 3.5 acres.

Mitchell asked the number of homes that feed into the park for Fields of Medina.

Finke replied that there are 120 homes and 150 planned townhomes to the south for the 7.5 usable acres the park resides on.

Mitchell stated that there is not enough land at the Fields of Medina to have a regulation size soccer field and that is why he was happy to hear this soccer field would be regulation size.

Pederson stated that he likes that the larger park was included and the lots were made larger but noted that he still struggles with the staging.

Cousineau agreed that she struggles with the staging and which version of the Comprehensive Plan the Council should be reviewing this request under. She stated that if the current Comprehensive Plan is used she then questioned the definition of development and whether that includes construction and disturbance of the land or whether that means occupancy.

Finke stated that the current Comprehensive Plan is in place until the draft plan is formally adopted by the City Council. He anticipated that the City would formally adopt the draft plan early 2018. He stated that once the update is underway and the public hearing has been held, the statute allows the City to enact a moratorium in order to protect the planning process. He stated that staff would only suggest the use of moratorium if major changes are made to the Comprehensive Plan and therefore the planning process could be upset contrary to what is planned for.

Batty stated that now that the 60-day review period is in place for applications, the City must act on applications and therefore if there is an application that the City is forced to act on while it is considering major changes to the Comprehensive Plan, the moratorium could be enacted to protect the planning process. He noted that this is a concept plan and therefore the 60-day review period would not apply to this request.

Finke provided an example of when the City allowed construction to begin earlier than the staging plan with the agreement that the building would not be occupied until the allowed staging plan. He noted that example is of a commercial building and therefore is not an exact comparison.

Anderson asked and received confirmation that both the staging jump ahead and PUD are merit based. He stated that he struggles with the design and does not believe that this is the type of innovative design that would qualify for a PUD and does not appear to have enough merit to qualify for the jump ahead provision.

Pederson stated that without the watermain and road connection for Chippewa he would not be interested as he believed that those infrastructure improvements would be needed for public safety.

Mitchell stated that the watermain issue was discovered more recently and needs to be solved. He agreed that the extension of Chippewa would need to be solved as well. He stated that in terms of the development plan, it appears to be getting better under each review. He stated that he appreciates the increased size of the park and the placement which would allow use for people outside of the development. He stated that he continues to struggle with the timing.

Cousineau stated that she prefers the plan submitted today but continues to struggle with the timing.

Mitchell reassured the applicant that these comments regarding timing are not unique to this applicant as the City has given the same comments to other requests that have come before the Council recently.

Pederson agreed that he likes the improvements that have been made to the plan. He urged the applicant to give special consideration to the areas that would buffer the properties to the north to ensure that appropriate screening and buffering are provided to those R-1 properties.

Finke noted that because the updated plan was submitted today, staff was not able to provide full review and could provide additional comments if the Council and applicant desire.

Martin rejoined the Council.

IX. OLD BUSINESS

A. Wally and Bridget Marx – Conservation Design Subdivision PUD General Plan and Preliminary Plat – 2700-2900 Parkview Drive (7:52 p.m.)

Finke presented a request for a Conservation Design PUD (CD-PUD) for the development of six lots on the property located between 2700 and 2900 Parkview Drive.

He stated that the City did review a Concept Plan earlier in the year and provided comments. He noted that since that review, staff summarized the primary changes that have been made to the plan and highlighted those changes. He stated that the applicant proposes that the property owners would own the outlots subject to conservation rather than having a common homeowners' association. He provided an overview of the proposed subdivision for the six lots on the subject property, approximately 90 acres in size. He stated that the proposed conservation areas are highlighted and split between buildable and unbuildable conservation easement. He stated that the ordinance requires at least 30 percent of the buildable acreage to be included in conservation. He highlighted the wetland and wetland buffer locations, which are protected by other regulations in City Code and therefore should be removed from the conservation calculation. He noted that while the steep slopes are removed from buildable acreage under the conservation design ordinance, staff would argue that would have higher value than the conservation of wetland and wetland buffers as those areas are already protected under City Code. He reviewed the intent of the CD-PUD ordinance, noting that the primary flexibility that is provided is the bonus density which would allow a property owner to double the number of lots as an incentive to conserve property within conservation areas. He stated that ultimately the discretion for the bonus density falls to the City Council to determine based on the applicant meeting the purposes and intent of the ordinance criteria. He stated that the six lots vary from 2.5 acres to 6.25 acres while the remaining property would be put into permanent conservation outlots that would be owned by the adjacent homeowner. He stated that the applicant identifies primary and secondary septic sites within each of the lots. He stated that much of the wooded areas of the site would remain within conservation areas. He highlighted a proposed shared driveway that allows a preservation corridor and protection of the wooded areas. He stated that, during the concept review, staff suggested moving the septic sites proposed for Lots Three and Four to provide additional conservation but noted that the sites remain the same. He stated that staff anticipates that the tree removal for the septic sites and driveway would be minimal and would not come close to the allowed removal rate. He stated that the applicant is proposing a public trail within the conservation easement and staff anticipates that the trail corridors would meet the requirements for park dedication. He stated that the Council would need to determine if the flexibility requested by the applicant meets the ordinance criteria. He stated that staff believes that this property is a good candidate for CD-PUD. He stated that the Planning Commission held a public hearing and recommended unanimous approval as presented subject to the conditions noted in the staff report. He stated that staff has received several letters in support of the project which have been provided to the Council.

Pederson asked the number of buildable acres under normal development.

Finke replied that conservation would not be required under normal development and estimated 30 buildable acres. He noted that 40 percent of that, 11.7 buildable acres, is proposed for conservation. He provided additional details on what may or may not be required under normal development in terms of wetland protection that would or would not be required.

Mitchell asked if the buildable acres are contiguous.

Finke replied that the buildable acres are highlighted in yellow and grey.

Mitchell asked if the conservation acres are contiguous or scattered throughout the site.

Finke replied that the most significant portion of contiguous buildable acres proposed for conservation is the wooded areas west of Lot Three.

Martin asked what was the rationale for the individual owners own the outlots rather than placing them into third party ownership. She asked what the applicable setback would be for a home along the northern boundary of the property under normal development.

Finke stated that the exterior setbacks for a conservation design would remain the same as the underlying zoning district and confirmed the location where a home could be built.

Martin stated that it was her recollection that the wooded area is extremely high quality, although marked as moderate due to the size of the wooded area.

Finke provided additional details noting that this would be the highest quality ranking you would be able to find within Medina.

Martin stated that under the current zoning, the property owners could request a building permit for each of the existing tax parcels and the City would have no means to infuse any additional protection on the woodlands.

Finke confirmed that 20 percent removal could occur on each lot upon development. He stated that the wetland preservation ordinance would be triggered on two of the existing parcels under normal development.

Martin asked for additional details on the trail alignment and potential connection from Parkview Drive.

Finke explained that the staff is concerned with providing safe access to the trail system as there is nowhere to park to access the trails because of the private roadways and narrow width of Parkview. He stated that there has been discussion of providing a trailhead to this site near Parkview. He noted that another possibility would be for the City to work with Three Rivers Park District to provide a connection from the existing Three Rivers Park site across the street. He noted that another option would be to share parking with the golf course and provide a connection from that route.

Martin stated that when the City seeks to preserve and protect the wetlands, there is often signage posted as purchasers do not often understand the restrictions. She asked if the wetland buffers and protected areas would be posted and signed with clarity.

Finke stated that he did not recall if there was language included in the land stewardship plan but noted that language could be included.

Cousineau asked if there is any restoration planned outside of tree replacement.

Finke replied that there would be limited invasive species removal and planting. He noted that the land stewardship plan is in draft form and additional restoration can be added if desired.

Kent Williams, representing the applicant, identified the members of the team present tonight and thanked the Council for the opportunity to speak tonight. He stated that

there are two components to consider for CD-PUD which are design flexibility and how well the conservation objectives are met. He noted recent changes to the ordinance which affect this project including making the public access of conservation areas to explicit rather than implicit; the two-acre size minimum (which this request meets); and the maximum density bonus can only be provided in exceptional instances. He stated that the Chair of the Planning Commission found that this project meets the criteria and finds this property to be an exceptional instance. He noted that some resources are moderate quality because they are not large enough in size. He stated that the only CD-PUD that has been approved is the Stonegate Deerhill Preserve project. He compared this project to the only approved project comparing the number of conserved acres and buildable land included in conservation areas. He stated that each of the conserved areas are high quality resources, although ranked as moderate because of the size. He noted that although some aspects are protected under other elements, such as the Tamarack Swamp, this proposal would provide public access to the resources that are currently only available to Mr. Marx because he owns all the land surrounding that resource.

Michael Pressman, Conservation Solutions, stated that he was first introduced to this property 13 years ago, when he started the Minnehaha Creek's conservation project. He stated that this property is identified as a priority for conservation. He stated that Hennepin County foresters visited the property and talked about certain features as high-quality areas. He noted that under current regulations, about 49 acres would be protected but under this proposal nearly 70 acres would be protected, which is a 42 percent increase. He noted that with this type of development, the more restrictive Minnehaha wetland buffer regulations would apply although that may not be the case under regular development. He stated that the big woods remnant is one of the highest quality resources on the property. He noted that the big woods are the habitat that was here before the area was developed. He stated that the City's Natural Resources Inventory stated that the old growth forests are probably one of the highest priority sites to consider for acquisition and protection in the near future. He noted that with this plan portions of the big woods would not be cleared for swimming pools and lawn. He stated the large wetland complex and forest which includes the Tamarack Swamp will also be protected, which is a high value resource that was identified as one of three in the City that is called out in the City's Natural Resources Inventory that should be protected. He noted that School Lake would also be preserved through the creation of outlots with protection, unlike typical lakeshore property development that would include mowing up to the lakeshore to create a better viewshed for the individual property owner and not for the benefit of the lake and fish and animal habitat. He also spoke of the important wildlife corridors that would be preserved through this subdivision. He noted that the plan would limit the building sites, the areas that could be cut and mowed, and preserved the connections and interplay for wildlife. He noted that the location to nearby Baker Park is also an important element that would allow for further ecological connections. He stated that in this case the full density bonus would equate to three lots. He stated that the natural resource elements on this property are of the highest quality within Medina, within Hennepin County and he would argue, within the seven-county metro area. He stated that this property is identified within not only the City's natural resource maps but also by the DNR, Minnehaha Creek, and Hennepin County. He stated that the interconnection of the conservation elements is both within this property and outside of this property. He noted that the Minnehaha Creek Watershed District would hold the easements and govern the activity. He noted that other municipalities and counties in the metro are willing to pay money for these conservation

easements to protect these areas from development. He noted that, even when bonding is requested to fund these conservation measures, municipalities take such actions all over the country to protect these areas. He noted that Medina had the forethought to create this ordinance which would allow the City to gain these conservation areas at no cost to the tax payers.

Laura Domyancich, Minnehaha Creek Watershed District (MCWD), stated that Mr. Marx and his team approached the Watershed District in November of 2016 and for the past ten months the Watershed District has been working with Mr. Marx and his team to draft the documents for the proposed conservation easements. She stated that MCWD staff, with the support of its Board, has moved forward in the roll of potential easement holder because of the high quality of the features. She stated that MCWD currently holds easements on the north side of School Lake and this would further contribute to the protection of this feature. She stated that this project aligns with the goals of the MCWD. She referenced the comments of Martin regarding signage and noted that part of the conservation easement language stipulates that the areas must be signed and noted that MCWD would supply and fund the cost of the signage.

Mr. Williams compared the objectives of the ordinance and how those would be met under this proposal to what would occur under normal development. He stated that Mr. Marx's arborist identified 4,000 significant trees, noting that under normal development up to 15 percent of those trees (about 600) could be removed under normal development without replacement. He noted that there would be no stipulation that would protect the old growth woods. He stated that, under this proposal, prior approval would be needed from the MCWD before conducted any cutting, which would ensure protection. He noted that approximately 22 trees would be removed for the driveways and was unsure of the number of trees that would be removed for the septic sites, noting that the trees removed would not be of high quality. He estimated that about half of one percent of the trees would be removed through this request compared to the 15 percent that could be removed without replacement under normal development. He referenced the debate with the location of the septic sites, noting that while the applicant believes that the proposed locations would not interrupt the trail connections and would like to keep the sites outside of the conservation easement areas would be agreeable if the applicant and the City desires that action. He noted that even though there is existing protection for wetlands, this proposal would provide even more protection for the wetlands. He noted that while the large wetland complex is protected by the MCWD, the smaller wetlands would not be protected under normal development but would be protected under this proposal. He noted that under normal development wetlands can be filled for development and mitigation can be provided through the purchase of wetland credits. He noted that this area is also identified within the Met Council's future water and sewer area and therefore the time to act to conserve this property is now. He stated that virtually the entire property is on the composite open space map, noting that the Stonegate property had only small portions of the northeast and to the south of the property located on the open space map. He spoke of the value of this property as a wildlife corridor not only internally connecting the features within the site but also connecting this site to other adjacent properties. He stated that the steep slopes are not currently protected and under conventional development a property owner could do what it likes whereas under this proposal those areas would be protected. He stated that the increased density does not essentially mean an additional burden on the land, noting that under conventional development the property owners can mow, cut, burn, hunt, trap, and build within the conventional lot areas and that those activities would be

prohibited under this proposal. He stated that the original proposal included only a semi-public trail around School Lake but the Park Commission expressed a desire for an easement on the south part of the property for future connection. He noted that the trail would not have been constructed until a future time. He stated that because there were comments that the desire would be for a trail now, the applicant changed the plan to create a looping trail which would allow the public to see all of the important conservation features on the property. He stated that the location of the public trail would remain off the private horse trail and those trails would be kept separate. He noted that signage would also be provided to keep the public off of the private areas and on the public trail. He stated that while they would be agreeable to putting in a trail head, that would come at some cost because that could jeopardize some of the old growth woods. He stated that they would be amenable to the desire of the City in regard to the trail head. He noted that there are elements that the City will need to discuss in regard to the public trail including the easement holder for the public trail, which would fall to the City noting that the City would then maintain that trail easement and enforcement of that trail activity. He stated that they are agnostic on the public trail issue. He stated that they believe that the public trail would be a feature for the public to be able to see the resources that are being preserved and the other issues that have arisen in regard to that element can be managed.

He reviewed the secondary elements of the ordinance comparing how this proposal would protect aspects that would not be protected under conventional density. He stated that the density requested would add three additional homes over a 90-acre area. He stated that Lot One would have a home built on it regardless of this request and doubted that any of the homes would even be seen from off of the property. He stated that the setback from Parkview will be exceeded to ensure that homes will not be seen from that roadway. He stated that the density proposed is consistent with the density adjacent to the project. He stated that the ordinance requires them to compare this proposal to future conventional development, noting that the Met Council's future sewer service areas map identifies this property as within the boundaries of property that would be served by sewer and water by 2040. He noted that it is not mere speculation that someday this property will be sewered in the future and this proposal would prevent that from happening, meaning that the City would not have to count on the decisions of future members of the Met Council, City Council, and landowners in terms of a higher density development someday occurring on this property. He noted that he provided a summary of the components of the approved CD-PUD Stonegate development and a comparison of those components to this proposal and provided a highlight of that. He provided additional information on the proposal for the homeowners to own the outlot areas. He noted that the easement agreement would include annual inspections by the MCWD that would include ongoing maintenance activities. He stated that homeowners would be responsible for maintaining the outlots and would have to go into the purchase with their eyes wide open to those responsibilities, noting that Mr. Marx would also not be able to charge a higher rate for those outlots because of the ongoing maintenance that would be required. He stated that Mr. Marx is not a big developer, noting that every other CD-PUD proposal that has come from the City has come from a big developer. He stated that Mr. Marx is a longtime Medina resident that has lived on his property for years and has worked to restore the property using a large amount of time and money to bring the property to this state and this is the method he would like to use to preserve the work that he has done and to protect the resources that exist on this property for future generations. He asked that the Council use the facts to review this request. He stated that based on what he has seen through this process and how complicated and

expensive it is, he did not believe that there would be many residents that have the necessary base density and upfront funds to go through this process and therefore approving this application would not “open the floodgates” for future requests. He mentioned the comment that this proposal has not been thoroughly vetted and reviewed the numerous meetings and people that have been involved in the review of this application. He noted that the Planning Commission recommended unanimous approval of the request as proposed. He stated that the applicant believes that the public trail would be a great feature but would be open to the final plat including the trail or not including the trail. He stated that this is the best deal that the Council will see for this property noting that many municipalities and counties have paid hundreds of thousands of dollars for conservation elements of this quality. He asked the Council to approve this request.

Liz Letner stated that she opposes the looped trail which comes close (25 feet as mentioned) to the horse trail. She stated that her property is the second one closest to the trail and would not want to track enforcement of the use of the horse trail. She stated that potential trespassing is a serious issue for her. She stated that she would not oppose the south trail.

Cindy Piper, 2905 Willowood Farm Road, stated that she is one of the 14 landowners that surrounds School Lake. She stated that they have heard wonderful things about the conservation easement and noted that while she is not opposed to that, she is worried about the contiguous landowners. She stated that the public trail would be very hard to maintain. She stated that the private landowners that use the horse trail would be worried about impact to the neighborhood and would then build fences which would eliminate the horse trail for the existing property owners. She stated that the conservation easement will do wonderful things for the land but acknowledged that this property would be difficult to develop. She highlighted the proposed looped trail and noted that would only tell you that people will keep going straight to use the private horse trail. She stated that she is not opposed to the south trail but would not like to see the looped trail as that will make a huge difference to the residents that live there.

Richard Haverman read aloud the email that he sent to the City Council which states that he owns 2782 Parkview Drive, which is the first property north of Mr. Marx’s driveway off Parkview Drive. He stated that he supports the comments expressed in a letter submitted by his neighbor. He expressed concern with the proposed looped trail and the potential of people parking along Parkview Drive as he believed that it would be absurd and would be dangerous for those parking along the roadway and for pedestrians. He stated that Parkview Drive can best be described as a rollercoaster. He noted that there are sufficient trails within Baker Park Reserve for the public to use. He stated that they do not want to lose the quiet enjoyment of their property because of an unwanted and unneeded public trail. He asked who would police the public trail and clean up garbage and debris from the public trail. He stated that he has a major concern that people would feel emboldened to stray onto private property and the vehicles parked along Parkview would cause pedestrians to walk into the road to go around the vehicles. He asked how his privacy would be preserved and did not believe that this development would increase the property values of the existing homeowners.

Liz Weir, 1262 Hunter Drive, stated that this project is very dear to her as she and previous Mayor Crosby worked hard to create this CD-PUD ordinance to protect the beautiful natural elements in the City before the sewer area spreads and dense

development continues. She stated that cities like Hopkins once looked like Medina before it was fully developed. She asked the Council to think of future Medina and future generations. She stated that this is an opportunity to preserve unspoiled natural beauty for future generations to enjoy and asked the Council to use the ordinance as it was designed.

Charlie Schroder, 2910 Parkview, stated that he is the property owner immediately to the north. He stated that this is a terrific property and commended Mr. Marx for the effort that he has put into the property. He asked for less density and noted that the public trails really are unworkable. He stated that the public cannot access the trail safely and people would jump to the private horse trail.

Pederson stated that he struggles with not having an HOA to possess the conservation easements and asked for input from Batty.

Batty stated that he was struck early on by that element, noting that his initial reaction was not positive partly because he had not seen that before. He stated that one challenge is that there would be a multiplicity of owners rather than a single party. He stated that he would be interested in seeing examples in which what they are proposing has been accomplished and worked. He stated that one of the challenges of small HOA's is that they tend to become dysfunctional and dissolve. He noted that large HOA's that have a lot of activity tend to be more successful. He stated that one risk in forcing the applicant to create an HOA would be that they would create an HOA simply to provide common ownership but then it could become nonfunctional and that could be worse than not having one.

Pederson stated that if someone starts up a chainsaw, the other property owners would probably investigate. He stated that if the HOA is going to become dysfunctional, then perhaps that would not be worth creating.

Batty stated that people tend to have a higher interest on their property and therefore perhaps they would only be interested in what happens on their property and not other properties, because of the distance between properties.

Cousineau asked if it could become conditional.

Batty stated that the HOA should not be a deciding factor tonight, noting the actions that are requested tonight for the rezoning and preliminary plat. He stated that there would still be a lot of work on the other documents and noted that if this progresses he would like to see examples of how this model works and would be open to hearing that information.

Martin stated that she struggled with that same issue, noting that her experience has been that common ownership of an outlot creates the thought of a community asset. She stated that if someone owns both the homesite and the conserved trust, the person often will assume they have the right to do what they want with the entire area. She stated that she would also be open to hearing more as it appears the MCWD endorsed this option. She stated that she would also be interested in seeing a marketing perspective for conservation design outlots as she did not believe that the closing process would thoroughly convey that information about the outlots to homeowners.

Anderson asked if anyone has experience with two easement holders.

Martin noted that would be micromanagement. She stated that she looked at the watershed documents from the last conservation easement process and they are very thorough.

Mitchell stated that there are a lot of details up in the air. He stated that the map tells him all the information he needs, identifying the preserved areas and areas that would already be protected to some degree. Mitchell referenced the elements that were preserved within Stonegate and believed that there were more elements preserved than was mentioned on the comparison sheet.

Martin noted that, with the Stonegate Development the prairie was restored and additional elements were preserved.

Mitchell stated that he did not believe that the areas highlighted in yellow were important features that would meet this level of CD-PUD. He stated that the applicant's team has stated that private land ownership can spoil the land but noted that there are many parcels of land owned by Medina residents that have been maintained very well. He stated that if the property owner feels so strongly about conservation, perhaps he should just donate the conservation easement and build the three houses that would be allowed under normal development. He stated that he feels strongly that increasing the density would turn the City more into a city like Hopkins. He stated that if there is a piece of land that is fairly wild and has three houses, that seems wonderful.

Martin stated that if there now are three parcels that are buildable, building permits could be requested and issued permitted and those requests would never come before the Council and therefore there would be no opportunity to protect resources on the property such as the old growth forest. She stated that this is the most beautiful stand of trees in the City and within Hennepin County. She stated that she would not want to lose that element and that the connectivity of the elements (the forest and Tamarack Swamp) would benefit the entire watershed and the minimization of building sites within those areas. She believed that this is a magnificent piece of property that she has walked two or three times. She stated that this property is beyond comprehension and is the highest quality that the City has. She stated that this is an opportunity to not only protect these resources but also use protective zoning. She stated that if the Metropolitan Council extends the public sewer system through here, which occur before 2040, this could be designated as high-density and that could devastate this property. She stated that while some property owners have big swaths of land, future generations would not have that opportunity because the land costs would continue to raise. She stated that this is a magnificent opportunity to protect Medina for future generations. She stated that she is a firm advocate of this property for conservation design as it has enormous value for conservation.

Mitchell stated that if the Marx family feels strongly, they can dedicate the conservation easement and three families can live in the lots that would be allowed.

Martin stated that to suggest that someone give away their land without some benefit is an unfair assumption of someone's financial resources.

Mitchell stated that the City is giving away money by allowing six homes instead of three.

Martin stated that the City would not be giving away money.

Anderson stated that he became aware of this project six or seven years ago, noting that the original proposal included nine or ten lots. He commended the property owner for his willingness to work with staff and reduce the density and create a plan that is immensely better. He stated that the applicant has done a lot and worked cooperatively to improve the plan. He stated that he agrees with the high value of the resources on this property. He stated that he believes that Lots One and Two are too close but because of the high value of the resources he could be convinced that those lots would be okay. He believed that the trailhead would be imperative for the property, noting that the comments made about Parkview were correct and parking cannot occur on the street. He stated that most people would park across the street at Baker Park Reserve but the trailhead would allow for two parking spots.

Martin stated that perhaps rather than the trailhead, which would cut into the forest, the applicant could provide proof of parking in the event that shared parking cannot be worked out with Hennepin County or Three Rivers Park. She stated that perhaps the applicant should show where potential parking could occur should the shared parking not be worked out.

Finke confirmed that could be done.

Pederson stated that this is a beautiful piece of land. He stated that he began on the Council in 2011 and Mr. Marx has reduced his proposal during the time that he has been on the Council.

Mitchell stated that there are trails at Baker Park and was not sure why additional trails would be needed on this property. He stated that the private horse trail has been voluntarily agreed on by the existing property owners for years and he did not want to see that jeopardized by this action.

Cousineau asked if the loop could be eliminated.

Finke agreed that could be done. He noted developments such as Wild Meadows and the lost opportunity that the City had to receive trails.

Martin stated the trail would need to be signed to ensure persons to stay on the trail and to safeguard private property. She stated that the easement can be dedicated and the trail would not have to be constructed until a future time when connections are available and the path is better known. She stated that perhaps it would make sense to allow the landowner to gate the entrance to the property and permit public to access the six lots during park hours.

Anderson stated that would seem contrary to the conservation and use of the property.

Martin stated that perhaps the public access is made separate from the property entrance.

Anderson noted that detail could be worked out in the future. He agreed that the trailhead could be gated.

Cousineau stated that if they receive trail easement they would be missing out on potential park dedication fees.

Finke suggested that the whole trail easement be taken at this time, whether or not it is used.

Batty agreed, noting that the City would never have another opportunity to gain the trail easement.

Pederson asked if additional screening could occur for the Schroders, which is the first property owner to the north.

Martin stated that the developer offered that during the presentation.

Cindy Piper stated that if the goal was to provide access from Parkview, that would mean the Johnsons would be the next property and perhaps the City will gain the easement when the day arises to connect the two, the trail would then be built.

Martin confirmed Council is requesting the future easement for the looped trail. She noted that the east/west trail would be provided by the applicant.

Finke stated that there may be some trail immediately and the future easement would be given for the looped trail to the eastern wetland.

Mitchell asked if the existing horse trail crosses Lots Three and Four.

Cindy Piper identified the existing horse trail.

Mitchell asked and received confirmation that the horse trail could remain even if homes are built on Lots Three and Four. He stated that those neighbors that use the trail would simply have to approach the new homeowners for those lots to confirm that they would not be opposed to the continued use, noting that is common practice as there are plenty of similar private trails that exist in Medina and Wayzata.

Moved by Martin, seconded by Pederson, to direct staff to prepare documents granting PUD General Plan of Development and Preliminary Plat approval to Wally and Bridget Marx for the requested CD-PUD subdivision, subject to the conditions noted in the staff report and adding the following conditions: an additional condition will be added to make clear that there is protective signage to protect the conserved areas in a manner acceptable to staff and MCWD; a condition will be added that marketing materials for the sale of these lots must include the easement and land stewardship plan documentation, and any brochures have to clarify the parameters of the conservation requirements imposed on the landowners, which would be approved by City staff; a condition will be added to require staff to work with the landowner to develop a proof of parking within the property and the trail signage would be clearly marked delineating the trail and private property and the trail loop would not be built out initially but would be dedicated through easement; flexibility in the plan documents to permit a gate/locked gate to create security and prevent intrusion onto the private property; the developer would install a landscaping buffer along the northerly border of Lot One and similarly to Lot Two to shield the property immediately adjacent from visibility of the home constructed on Lot

*One; and additional discussion is to occur regarding the use of an HOA or other private system for ownership of the conservation easements. **Motion passed 4-1 (Mitchell opposed).***

Mitchell voted no because he felt that the five-acre zoning standard worked adequately for this property and the conservation design was not beneficial. Mitchell briefly recessed the meeting at 9:47 p.m.

Mitchell reconvened the meeting at 9:52 p.m.

B. Medina Senior Living Community – Rezoning, Preliminary Plat, and Site Plan Review (9:52 p.m.)

Johnson stated that the Council reviewed this item at the August 15th meeting and highlighted the few changes that were made since that time. He noted that staff has worked with the applicant since that time.

Sparks stated that the Council requested that the applicant move the building to minimize the wetland impact near the structure. He stated that documents related to the approval were directed to come back to the Council along with the successful completion of minimizing the wetland impacts. He provided additional information on the wetland impacts, noting that a portion of the building was moved away from the wetland to minimize that impact. He noted that there would still be an impact for the entrance to the site but the impact near the building has been minimized. He stated that the parking has been reduced and a proof of parking was provided in the case that the additional parking is needed. He stated that the number of units were reduced by seven units and therefore the parking reduction relates to the reduction in units. He stated that the Planning Commission recommended that the building materials for the skyway be changed and noted that has been done. He noted that the landscaping plan was slightly altered because of the building location change. He stated that a few replacement trees will not make it into the new plan because of the shifted building location. He displayed the plan that was discussed on August 15th and then compared that to the plan that incorporates the directed changes. He provided additional information on park dedication and the tree removal and replacement, which could include funds for offsite planting. He stated that the Planning Commission felt comfortable with the proposing rezoning because of the similar uses allowed within the zoning districts.

Pederson stated that he recalled reading something that there is a question regarding the underground parking and asked for additional information.

Stremel stated that staff would like confirmation that the underground parking would not be interfered with by the underground water levels, providing an example of the situation that arose with the Wealshire project.

Batty reviewed the actions before the Council tonight, noting that the rezoning request would be made contingent upon approval of the final plat. He stated that the Council is also considering the Preliminary Plat approval, which would be subject to a number of conditions. He stated that if they could not meet the conditions outlined, the applicant would not move forward to Final Plat and the rezoning then would also not occur.

Mitchell confirmed that the applicant would work with staff to ensure that the readings and elevations are correct to support the underground parking.

1. **Ordinance No. 617 Amending the Official Zoning Map to Rezone the Property Being Subdivided and Developed as the Medina Senior Living Community**

*Moved by Anderson, seconded by Pederson, to adopt ordinance no. 617 to rezone the subject property to the Business zoning district. **Motion passed 4-1 (Cousineau opposed).***

2. **Resolution No. 2017-73 Authorizing Publication of Ordinance No. 617 by Title and Summary**

*Moved by Anderson, seconded by Pederson, to adopt resolution no. 2017-73 authorizing publication of ordinance no. 617 by title and summary. **Motion passed 4-1 (Cousineau opposed).***

3. **Resolution No. 2017-74 Granting Preliminary Plat Approval for a Subdivision to be Known as "Lunski-Nelson Addition"**

*Moved by Anderson, seconded by Pederson, to approve resolution no. 2017-74 granting preliminary plat approval subject to the conditions noted in the staff report. **Motion passed 4-1 (Cousineau opposed).***

4. **Resolution No. 2017-75 Approving a Site Plan Review for the Medina Senior Living Community and Medical/Office Building**

*Moved by Anderson, seconded by Pederson, to approve resolution no. 2017-75 granting site plan review approval, subject to the conditions noted in the staff report. **Motion passed 4-1 (Cousineau opposed).***

Martin left the meeting at 10:08 p.m.

C. **Reserve of Medina 2nd Addition – Final Plat and Development Agreement (10:09 p.m.)**

Pederson noted that he has recused himself in the past but does not believe he has any conflict of interest at this point. He asked if he should recuse himself now because he has in the past.

Batty asked what has changed from past situations that would change the belief of a conflict of interest.

Pederson stated that in the past the property bordered his property to the north. He noted that this parcel of land is past his property and therefore he no longer borders the subject property. He stated that he has never had a financial interest in the matter.

Finke stated that in the past they stubbed a street to a common property line and there were common utilities and therefore there was more direct of a tie for previous phases.

Batty stated that ultimately it would be Pederson's decision. He stated that what is done is done, and whatever conflict may have been was with regard to the first addition and perhaps there was benefit from the connection but as the subdivision moves on, those benefits or issues have been resolved.

Pederson confirmed the consensus of the Council that he does not need to recuse himself.

Finke stated that the original plat was approved in 2013 for a total of 126 lots. He stated that Phase I began that year and included 51 homes and this Phase II would include an additional 44 single-family lots. He stated that the applicant also provides an outlot for access to the southeast corner of the site, which is owned by the City. He stated that there is another outlot on the north end which is identified for future phasing of the project. He displayed the approved Preliminary Plat and identified the location of Phase II. He stated that the purpose of the Final Plat is to ensure consistency with the Preliminary Plat and confirm that all conditions have been met. He stated that the plat is consistent with the approved Preliminary Plat and staff believes that all conditions have been with the inclusion of the conditions included in this proposed resolution. He noted that staff is working with the applicant to finalize two blanks on the Development Agreement related to the numbers for the letter of credit and construction escrow. He stated that the numbers have been provided by the applicant, which are then reviewed by staff and will then be inserted into the Development Agreement as agreed upon by staff.

Batty explained that standard procedure is for the developer to provide cost estimates which are reviewed by the City Engineer to ensure those figures are accurate and determine the maximum exposure of the City.

1. **Resolution No. 2017-76 Granting Final Plat Approval for Reserve of Medina 2nd Addition**

*Moved by Cousineau, seconded by Anderson, to adopt resolution no. 2017-76 granting final plat approval for Reserve of Medina 2nd Addition. **Motion passed unanimously.***

2. **Development Agreement by and between the City of Medina and Toll MN, L.P.**

*Moved by Pederson, seconded by Anderson, to approve Development Agreement by and between the City of Medina and Toll MN, L.P. for the Reserve of Medina 2nd Addition with the dollar amounts as shown in the staff memorandum. **Motion passed unanimously.***

D. **Resolution No. 2017-77 Adopting Assessment Roll for Deer Hill Preserve Road Improvement Project (10:27 p.m.)**

Johnson stated that this is for the public improvement project for the new portion of Deer Hill Road and Homestead Trail. He stated that the project was requested by the developer and therefore 100 percent of the cost would be assessed to the developer.

Batty stated that this does not require a public hearing because this is a result of a petition and waiver.

*Moved by Cousineau, seconded by Anderson, to adopt resolution no. 2017-77 adopting assessment roll for Deer Hill Preserve road improvement project. **Motion passed unanimously.***

X. **CITY ADMINISTRATOR REPORT (10:30 p.m.)**

Johnson noted the memorandum from Belland regarding Wayzata Police Officer William Matthews' Funeral and highlighted the excellent job done by Sergeant Nelson and thanked him for his great work. Johnson also thanked the Police force for the excellent job they did with funeral and the job they continue to do.

Pederson commented that it speaks highly of the department that they were chosen to be in command.

Anderson commented that the note from Mitchell to Wayzata Mayor Wilcox was elegantly written.

Johnson thanked Anne Klaers for the excellent job she did with Medina Celebration Day, as well as the Public Works Department and other Staff who made the event possible. He also thanked Shorty Dorweiler for his help with the event.

XI. MAYOR & CITY COUNCIL REPORTS (10:32 p.m.)

No comments.

XII. APPROVAL TO PAY THE BILLS (10:32 p.m.)

*Moved by Anderson, seconded by Cousineau, to approve the bills, EFT 004294E-004313E for \$42,425.13, order check numbers 046323-046372 for \$186,710.33, and payroll EFT 0508133-0508163 for \$49,080.74 and payroll manual check 0020437 for \$64.28. **Motion passed unanimously.***

XIII. ADJOURN

*Moved by Anderson, seconded by Pederson, to adjourn the meeting at 10:32 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Jodi M. Gallup, City Clerk