

MEDINA CITY COUNCIL MEETING MINUTES OF JANUARY 3, 2013

The City Council of Medina, Minnesota met in regular session on January 3, 2013 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

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

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Planning Consultant Nate Sparks, Public Works Superintendent Steve Scherer, City Administrator Scott Johnson, Chief of Police Ed Belland, and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE

III. CEREMONIAL MATTERS

A. Oath of Office for Mayor Tom Crosby

Johnson administered the Oath of Office to Mayor Tom Crosby.

B. Oath of Office for Councilmember John Anderson

Johnson administered the Oath of Office to Councilmember John Anderson.

C. Oath of Office for Councilmember Elizabeth Weir

Johnson administered the Oath of Office to Councilmember Elizabeth Weir.

IV. ADDITIONS TO THE AGENDA

The agenda was accepted as presented.

V. APPROVAL OF MINUTES

A. Approval of the December 18, 2012 Special City Council Meeting Minutes

*Moved by Weir, seconded by Pederson, to approve the December 18, 2012 special City Council meeting minutes as presented. **Motion passed unanimously.***

B. Approval of the December 18, 2012 Regular City Council Meeting Minutes

It was noted on page four, line 16, it should state, "...20,000 square feet..." On page six, line 35, it should state, "...~~schedule~~ detail for build outs..." On page six, line 30, it should state, "...access to high speed internet." On page eight, following line 41, the following sentence should be added, "He expressed concern of the cost of the sport court." On page nine, line six, it should state, "...~~correct~~ appropriate..." On page ten, line 34, it should state, "...~~deserve~~ merit these..."

*Moved by Weir, seconded by Martinson, to approve the December 18, 2012 regular City Council meeting minutes as amended. **Motion passed unanimously.***

IV. CONSENT AGENDA

- A. Approve 2013 Meeting Calendar
- B. Approve Raffle Permit to North Memorial Foundation at 500 Highway 55 on February 8, 2013
- C. Approve Agreement between City of Medina and Wenck Associates, Inc. for Soil and Engineering Consultant Services
- D. Approve Amended Agreement with Abdo, Eick, and Meyer for 2012 Audit
- E. Resolution No. 2013-01 Granting Extension of Time to File the Enclave at Brockton 2nd Addition Plat Amending Resolution No. 2012-73

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

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Martinson reported that the Park Commission did meet and discussed sport courts, noting that a representative was present to provide examples and detailed information to the Commission.

Crosby stated that he is impressed with the sport courts; his only concern was with the cost and whether those funds could be spent in another manner.

Johnson stated that the Council and Commission will be invited to tour some sport courts in surrounding communities.

Crosby stated that he would also like to tour non-sport courts.

C. Planning Commission

Finke summarized the items that the Planning Commission will be discussing at their next meeting.

VIII. NEW BUSINESS

A. License for Collection and Disposal of Residential Solid Waste, Recyclables, and Compostables with Randy's Sanitation, Inc.

Crosby provided background information, noting that Randy's has just completed a five-year contract with the City. He advised that prior to that time the City was served by three different sanitation firms and the City determined that method was causing too much wear and tear on the roadway.

Johnson stated that staff was able to negotiate a five year license agreement with a five year extension option. He advised that the City would simply need to provide a 60-day notice should they not wish to extend the agreement.

Crosby stated that these rates are about the same, the City will soon announce a single sort recycling, and the compost program will be made easier as well.

*Moved by Weir, seconded by Pederson, to approve the License for Collection and Disposal of Residential Solid Waste, Recyclables, and Compostables to Randy's Sanitation, Inc. **Motion passed unanimously.***

B. Resolution No. 2013-02 Establishing 2013 Appointments and Designations to Various City Services, Authorities, Commissions and Agencies

Crosby stated that there were relatively few changes to the appointment and designations and briefly summarized those changes. He confirmed that Anderson would take the place of Siitari on the Public Safety Commission.

Pederson stated that he would like to be an alternate for that Commission as well.

Crosby noted that any interested Councilmember could attend a meeting along with the appointed member, so long as there are not more than two Councilmembers present at the same meeting.

Weir stated that while she likes to assist with the Watershed appointments, she would like to taper off some of the duties and reviewed the appointments proposed. She suggested that alternate appointments be looked for the TMDL groups with the exception of Elm Creek where she can continue to represent the City.

Crosby suggested approving the appointments as listed and noted that additional changes could be made to the TMDL appointments in the future.

Johnson referenced an I-94 Chamber of Commerce appointment and questioned if the City should still appoint a representative.

Pederson stated that he feels that the I-94 Chamber has become too far away for most Medina businesses to participate in.

Weir confirmed that appointment would not be necessary.

Crosby confirmed that the appointment to the German Liberal Transition group could also be removed. He discussed the possible appointments to the Planning Commission.

Weir discussed the two candidates being reviewed for the vacant position and provided her input. She recommended Mark Osmanski for the position but encouraged the other applicant Bill Ciora to apply again in the future.

*Moved by Weir, seconded by Pederson, to appoint Mark Osmanski to the vacant one-year term on the Planning Commission and to reappoint Kent Williams and Kathleen Martin to three-year terms on the Planning Commission. **Motion passed unanimously.***

Johnson reviewed the recommendations for the Park Commission.

*Moved by Weir, seconded by Pederson, to appoint Janet White and Steven Lee to three-year terms on the Park Commission. **Motion passed unanimously.***

*Moved by Weir, seconded by Pederson, to approve Resolution No. 2013-02 Establishing 2013 Appointments and Designations to Various City Services, Authorities, Commissions and Agencies. **Motion passed unanimously.***

C. Schedule Special Meeting for Annual Goal Setting Session

Crosby explained that the City departments develop a list of goals on an annual basis in terms of planning rather than financials.

Johnson reviewed the two dates and times proposed for the annual goal setting session.

*Moved by Weir, seconded by Pederson, to schedule a special meeting on Tuesday, January 15th at 2:00 p.m. at Medina City Hall. **Motion passed unanimously.***

IX. OLD BUSINESS

A. Moser Variance Request – to construct a new home in the Urban Residential (UR) zoning district along Ardmore Avenue (PID 18-118-24-0154)

Crosby noted that this item was first considered at the last meeting.

Sparks confirmed that this item had been tabled at the December 18th meeting to allow staff to gather additional information. He provided background information on the parcel, the variance request, and the proposed plans from the applicant. He reviewed the variance criteria and noted that specific questions arose at the previous meeting, which were addressed through a memo enclosed in the Council packet, and addressed those matters. He addressed the point made that an additional variance would be needed for impervious surface and stated that it is the opinion of staff that a variance would not be necessary for that matter. He addressed the point that another variance was not listed but advised that staff discovered that during the application and noted that additional request was brought forward at the first public meeting and every meeting since that time. He addressed the point that the wetland delineation was not valid and advised that delineation was approved in 2011 and is valid for three years. He addressed the matter of the patio and advised that if the Council approves the request a condition could be added which would limit the impervious surface for the lot to better clarify. He confirmed that the DNR was notified as required by law. He advised that the City also sent out the required notification to residents. He referenced the question of whether this was a lot of record and explained that the question is irrelevant because variances are required. He stated that the Planning Commission recommends approval of the request and noted that staff amended the proposed conditions to incorporate the maximum impervious surface and address the stormwater provisions.

Robin Reid, 2945 Ardmore, stated that she lives across the street from the parcel. She questioned if the City has an obligation to allow the applicant to build a typical Medina house on the property. She stated that the applicant was able to purchase the lot for \$45,000 because of the small buildable area of the lot and explained that the applicant would now like to build a large home on the lot, which requires grading and five variance requests. She noted that a property in the area received similar variances 12 years ago, before the wetland protection laws were put into place. She believed that the wetland buffers would inevitably be encroached upon. She reported that two LICA members oppose the high variance requests and questioned why those comments were not being taken more seriously. She provided additional information regarding negative impacts because of grading near the shoreline and the reduced setbacks. She believed that the Planning Commission did not pay enough attention to the impacts to the wetland when the applicant amended the original plan. She did not believe that the number and scope

of the variance requests were reasonable and believed a smaller home would be reasonable use of the property. She believed that awarding these variances to the applicant would provide the applicant with special privileges.

Dave Raskob, who lives five doors down from the proposed property on Lake Ardmore, stated that the footprint of the applicant's home is smaller than that of a doublewide trailer. He believes that the people opposed to the request simply do not want to see the applicant build on the lot. He advised that the proposed home is the same distance from the lake as all the other homes along the lake. He urged the Council to approve the staff recommendation, which has been worked on for the past several months.

Weir stated that her concerns relate to the Council's responsibility towards impaired waters. She stated that the present applicant presents a threat to that charge of protecting public waters. She stated that she would like to see the driveway 25 to 30 feet long, with the whole home moved towards the street. She did not believe that it was beneficial to move the home toward the lake as the Planning Commission recommended during their first review. She stated that the current plan only allows two feet between the home and the upland buffer. She stated that she would not be able to vote in favor of the request because of those reasons.

Anderson stated that the Planning Commission requested the home to be moved back because of the concerns from the neighbors that the home was too close to the street.

Weir stated that these water bodies require additional protection and she cannot vote for the plan as it stands. She believes that 30 feet would be a reasonable distance from the street and also believes that less fill would be required.

Crosby questioned the distance from the street for the other homes in that area.

Finke commented that most homes along Ardmore are 40 feet from the roadway, while the homes along the side streets are closer to 30 feet from the roadway.

Weir stated that she believed the lot would be better enjoyed with more of a backyard.

Martinson asked which way Anderson voted, as he had been a member of the Planning Commission prior to joining the Council.

Anderson reported that the first vote was unanimous in opposition of the request. He stated that the second request was a vote of 4-1 in favor of the request as the applicant had made an attempt to meet several of the conditions and address concerns expressed by the Planning Commission. He confirmed that he voted in favor of the request.

Pederson stated that while he believes the applicant did a great job in reducing the size of the home, he echoes the thoughts of Weir in moving the home towards the roadway.

Weir confirmed that moving the home towards the street would reduce the variance from the lakeshore, while increasing the variance between the home and the street.

Martinson confirmed that a variance would be required on all four sides of the property.

Crosby confirmed that the applicant was originally asking to locate the home seven feet closer to the street.

Weir questioned if the applicant would be willing to move the home back towards the street as originally proposed.

Jake Moser, applicant, stated that when the original plans were brought to the Planning Commission there was a two story home with a side entrance garage. He stated that even with moving the home four feet or seven feet towards the street, it really would not make much of a difference in terms of a backyard.

Weir noted that the benefit would be in regard to infiltration and environmentally.

Finke stated that on this lot there is no way to build a home without triggering a setback variance on the front or backside of the property.

Weir stated that she would approve a home closer to the street.

Crosby questioned if Palm would ever develop as a street.

Scherer noted that the street would never be developed and will be used as access to the lake by the City.

Finke explained that the applicant could have requested a vacation of the easement and staff would have allowed a vacation of some sort with access allowed to the lake for the City, but acknowledged that less than 60 feet would be necessary.

Crosby stated that he would be in favor of the request, with the idea from Weir that the home be brought back from the lake slightly. He stated that the request is not unusual and believes that the applicant has the right to build on the lot.

Moved by Weir, seconded by Anderson, directing staff to draft a resolution for the January 15, 2013 meeting with specific findings for approval, with the added condition that the home be moved seven feet towards the street and away from the lake.

Further discussion: Anderson asked Weir the benefit she feels will be gained by moving the home seven feet from the lake.

Weir believed that benefit would be gained in infiltration and also believed that this would allow for more space between the home and the already reduced upland buffer. She noted that this would ensure additional protection, not only from the applicant but future homeowners as well.

Martinson questioned if there are any circumstances that the Council would be more willing to protect the lake rather than the aesthetics of the neighborhood.

Weir stated that she cannot foresee any circumstances that you could deny someone to build on a lakeshore lot.

Crosby stated that under the new law you are required to ask if the project could be done in a less invasive manner. He noted that by moving the home towards the street you are protecting the lake over the aesthetics.

Batty agreed that the proposal from Weir is protecting the lake as opposed to protecting the aesthetic view from the street.

Weir stated that by moving the home towards the street the applicant would be reducing the impervious surface for the lot and therefore impervious pavers would not be necessary for the patio.

Motion passed 4-1 (Martinson opposed).

X. CITY ADMINISTRATOR REPORT

Johnson noted that Chief Ed Belland is heading off to training at the FBI Academy for 10 weeks and will therefore be missing the next several Council meetings.

Belland noted that Sergeant Nelson will be the Acting Chief while he is out of state.

XI. MAYOR & CITY COUNCIL REPORTS

Crosby stated that in the next few weeks the he will meet with two attorneys in regard to the Mediacom matter. He stated that the Mayors have been asked to attend two upcoming meetings with the LMCC. He noted that he may not be able to attend one of the dates but confirmed that Martinson would be able to attend in his place. He stated that the lawyer representing the LMCC sent a letter to the City stating that they do not believe that the City can leave the LMCC. The first question he will ask the attorneys he is meeting with is whether or not they believe the City can leave the LMCC. He advised that an insert would be enclosed in the City newsletter regarding the 55/116 intersection and noted that he would add a few comments to the insert.

Weir advised of a letter of response she received in regard to the Watershed issues and entered the letter into the record through Johnson.

Johnson confirmed that he would distribute copies of the letter of response to each of the Councilmembers.

XII. APPROVAL TO PAY THE BILLS

*Moved by Pederson, seconded by Martinson, to approve the bills, EFT 001908E-001934E for \$37,772.91 and order check numbers 039174-039235 for \$141,969.72, and payroll EFT 504667-504691 for \$44,720.19. **Motion passed unanimously.***

XIII. ADJOURN

*Moved by Pederson, seconded by Weir, to adjourn the meeting at 8:32 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Scott Johnson, City Administrator