

## **MEDINA CITY COUNCIL MEETING MINUTES OF FEBRUARY 3, 2010**

The City Council of Medina, Minnesota met in regular session on February 3, 2010 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

### **I. ROLL CALL**

**Members present:** Crosby, Siitari, Smith, Weir.

**Members absent:** Johnson.

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, City Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Chad Adams and Recording Secretary Carla Wirth.

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

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

*The agenda was accepted as presented.*

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

#### **A. Approval of the January 19, 2010 Special City Council Meeting Minutes**

*Moved by Smith, seconded by Weir, to approve the January 19, 2010 special City Council meeting minutes as amended. **Motion passed unanimously.***

#### **B. Approval of the January 19, 2010 Regular City Council Meeting Minutes**

It was noted on Page 2, Line 35, it should state: "reported that two new members, Kathleen Martin and John Anderson, joined the Commission..." Line 50: "Temroc building in conjunction with other jurisdictions; and..." Page 3, Line 4: "...but advised that it would be..." Line 50: "...that the public should be educated..." Page 5, Line 24: "...recently completed conservation ordinance funded by the MPCA and provided..."

*Moved by Weir, seconded by Siitari, to approve the January 19, 2010 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Approve Raffle Permit for Turn in Poachers - West Metro Chapter at 500 Hwy 55 on March 7, 2010**

#### **B. Approve Kicks 4 Kids Soccer Program Agreement**

#### **C. Approve Hamel Athletic Association Agreement**

#### **D. Resolution Authorizing Execution and Approval of Grant Agreement for Hamel Field House**

#### **E. Resolution Upholding a Decision to Deny Permission to Construct Improvements within Right-Of-Way adjacent to 2590 Keller Road and Ordering the Removal of Certain Improvements from the Public Right-Of-Way**

#### **F. Resolution Approving and Awarding the Sale of, and Providing the Form, Terms, Covenants and Directions for the Issuance of Its Limited Taxable**

**Tax Increment Revenue Notes, Series 2010 in an Aggregate Principal Amount Not to Exceed \$2,000,000**

**G. Accept Clydesdale Trail (Medina Retail & TH55) Public Improvements in Amount of \$3,870,728.17**

**H. Accept Trunk Highway 55 South Frontage Road Public Improvements in Amount of \$484,328.48**

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

**VI. COMMENTS**

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

There were none.

**B. Park Commission**

Park Commissioner Ann Thies stated they held their first meeting of the year last week and selected Ben Benson as Chair, Madeleine Linck as Vice Chair, and Paul Jaeb as Secretary. She reviewed topics covered by Adams and the Commission's discussion of the Hamel Legion Park fencing. The Commission recommended, on 4/2 vote, to reduce the commercial park dedication from 10% to 8%.

**C. Planning Commission**

Planning Commissioner Kent Williams stated they have not met since the last Council meeting but at the last meeting had recommended approval of the two cases on the Council's agenda tonight. At their next meeting, they will consider the Lennar concept plan and OSI site plan.

**VII. NEW BUSINESS**

**A. Three Rivers Park District, Baker Near-Wilderness Settlement Request for CUP Amendment**

City Planner Finke presented the request of Three Rivers Park District to amend their CUP for the Near-Wilderness Settlement Area on CR24 to construct a 768 square foot office building to serve their district staff on Public/Semi-Public (PS) zoned property, which requires a CUP. He described the site plan, setbacks, and existing improvements. It was noted the septic system is located north of the staff cabin.

Finke noted this parcel is 295 acres in size and reviewed the number and location of existing parking spaces, noting one stall will be lost through construction due to having to meet wider ADA requirements. The current CUP required 40 paved parking stalls. Staff and the Planning Commission discussed whether the required parking stalls should be required but, since the potential parking concern occurs only 8-10 times a year when the lodge is at maximum occupancy, it was decided that overflow parking can be handled at the maintenance barn to the south instead of increasing hard surfaces.

Finke presented the office floor plan, exterior elevations, and efforts being made for Low Impact Development by using a green roof, localized retention area capturing run off, and wood chip trails where allowed. The Planning Commission recommends approval of the CUP amendment subject to eleven conditions as detailed in the staff report.

Smith stated she was surprised there was not an issue of hard cover of 20% since the Park District said they couldn't do the horse trail because it would put them over that percentage. Finke explained it is not an issue of hard cover limitation but, rather, active recreational use versus reserve use.

Weir asked about Condition 4, building permits, and noted they will not be building a septic mound or system but would put in a septic pipe that will connect to the existing system. Finke stated that language will be clarified since it is actually a plumbing permit to connect to the existing septic. Weir asked if the septic line would be installed by directional bore or open trench.

Dan Elias, Park District Designer, stated they have worked with Metro West Inspections to directionally bore that line to save many significant trees. With regard to the 20% issue, he explained this reserve is at the 20% developable area. This building will be constructed within a previously designated developable area. He offered to provide staff with information on the definition of developable area and explained 20% is a self imposed requirement and the same within all park preserves.

Smith stated she wants to assure there is a sufficient horse trail along County Road 19 because it is important to provide safety. She stated there is an area from County Road 24 to the creek where the horse trail narrows and becomes too close to the other trail.

*Moved by Weir, seconded by Smith, to direct staff to prepare a resolution approving the request of Three Rivers Park District for CUP amendment with conditions as presented by staff. **Motion passed unanimously.***

**B. Ordinance Amending the Regulations of the Rural Commercial Holding (RCH) Zoning District and Creating the Rural Business Holding (RBH) Zoning District; Amending Section 835**

City Planner Finke stated the properties under discussion tonight were guided in the new Comprehensive Plan for Commercial, General Business, or Industrial Business uses in the future, but which cannot develop with municipal services until some time in the future as a result of the Staging Plan. This ordinance would provide for short-term uses until such a time urban services are available and the property would then be rezoned.

Crosby noted this is an amendment on property that currently has restrictions on use, pending ultimate development, so this is not a down zoning concept. Finke stated the major change is not in these regulations, but decisions already made by the City in the Comprehensive Plan. He explained this would not be a down zoning but the Comprehensive Plan does zone property for a less intensive use for the short term until urban services are available.

Finke displayed a map to identify the properties under discussion and described the regulations for two zoning districts: Rural Commercial Holding (RCH) and Rural Business Holding (RBH). He explained the RCH district already exists and applies to property along Highway 55. RBH is a new district recommended by staff. Finke reviewed past City action in 2001 to create the RCH district and explained the recommended action would be a continuation of that policy and when utilities become available, the properties would be rezoned Commercial or Business upon development.

Finke noted the regulations in Rural Commercial mirror the RCH district that is already adopted and when sewer is available that would be a likely zoning to use. RBH is similar to Business Park. The policy question tonight is how to regulate the land use to limit development to uses that can be intensified when urban services become available.

Crosby asked if property owners received notice and what has been the response from the community. Finke explained there has been some confusion because many property owners who received this notice had received previous notices for the Commercial Park zoning district discussion. One request was received from the owner of a contracting business on CR19 who was fearful their use would be made nonconforming so the Planning Commission recommended adding "Contractor Services" into Rural Holding. Finke advised the bigger concern was with the Comprehensive Plan and enactment of the Staging Plan since these properties previously had the ability to develop.

Planning Commissioner Williams stated no one appeared at the public hearing to speak, but some submitted written comment or talked with staff.

Smith stated she is supportive of past action since residential usage should not be allowed if it will end up as Commercial. She supported allowing a less intense smaller commercial use. Smith asked about the option of using "ghost platting" for larger sized parcels. Finke stated that type of process is normally used to lay out residential lots but may not be as useful for laying out RCH properties because when sewer is available, the commercial uses may differ. However, you could consider how utilities can be extended to the rest of the property, like a site layout, to assure the ability to further subdivide. He noted that staff identified heavier water uses and removed them from being allowed since the property would be on a septic system.

Smith stated she was surprised auto sales is allowed under Rural Commercial since it involves a lot of outdoor storage. Finke stated outdoor storage is limited to 20% of the size of the building and must be screened so there cannot be open sales lots.

Finke advised that some existing residential homes within these Districts would become nonconforming uses. The Staff report identified the homes that exist today as an interim use and are allowed without a permit. The Ordinance, as drafted, would allow those uses to have an addition or intensive residential use with approval of an Interim Use Permit which allows review and the ability to add a condition that the residential use is temporary until the site is redeveloped.

Finke stated in order to limit the potential for development in RCH and RBH Districts, staff recommended a 20 acre minimum lot size including five acres of suitable soils. He stated that as of today, there are 30 lots within the district. Adding the required 20 acres means only one parcel would have the ability to further subdivide. In addition, the draft ordinance limits sanitary sewer usage on a lot to 100 gallons/day/net acre. He reviewed a chart that translated the sanitary sewer usage limitation into a maximum amount of square footage for different uses that could be constructed that would produce about 100 gallons/day/net acre. Finke stated the other significant change is a recommendation to increase the residential setback from 50 feet to 100 feet for Residential Holding because of the rural nature of the lots.

Finke stated the existing ordinance requires properties to connect to City sewer when it becomes available. Staff noted the language adopted in 2001 does not reference connection to City water and there is no exemption for farm houses. Finke stated Staff included an exemption so it is not a requirement to connect unless they want a Commercial use in the interim.

Finke stated the Planning Commission recommended approval of the ordinance with two changes: to add "Contractor Services" to the list allowed within RCH; and, to add stronger language to emphasize the importance of designing any short-term development which may occur prior to municipal utilities being available in a way which can efficiently accommodate additional future development. Both of these changes have been incorporated into the ordinance under review.

Crosby polled the Council whether anyone did not support the creation of a Rural Business Holding district. No one responded.

The Council reviewed each page of the draft ordinance and consensus was reached to make the following revisions:

Pages 1 and 10, add language referring to: "protecting ecologically sensitive natural features."

The Council indicated support to not allow the growing of livestock since it raises water quality issues. Batty explained this is a total ban and given the statutory and constitutional protections he was not sure the City can distinguish among the types.

Pages 1 and 10, add: "consistent with the animal density standards."

Weir referenced Page 5 and asked if Section 835.05 Interim Uses, (1) should say "existing" single family. Smith questioned if there is an impact with insurance coverage and stated her preference to use the term "interim use" instead of "nonconforming use."

Finke explained that a nonconforming use could continue into perpetuity but an interim use assumes an end date. The question is whether it is necessary given the protection nonconforming uses already have under the law. The ordinance, as drafted, includes a default event to trigger the end of a single-family use: "when the property is redeveloped." Council indicated it was comfortable with this approach for interim use. Batty stated this is not a classic use of the interim use permit notion and he does not know about the insurance impact since there are not many interim uses in existence. Crosby felt the default clause answered that concern. Weir expressed concern the City may end up with a lot of poorly maintained houses. Batty agreed that may occur.

The Council discussed whether a homeowner should be required to connect to water if the property has a sufficient well, noting the cost burden to connect is \$4,000, piping costs \$25-30/foot and may require 1,000 feet of pipe, and a residential 4 inch pipe could not be reused by a future commercial project.

For residential uses, the Council supported an exemption for sewer connection if the septic system is not failing and to not require water connection.

Page 7, subdivision 1, staff to refine language for "guided development."

Page 13 staff to add language for sewer and water exemption.

*Moved by Weir, seconded by Smith, to direct staff to make revisions to the ordinance as indicated above for inclusion on the March 2, 2010, consent agenda. **Motion passed unanimously.***

**C. Ordinance Amending Section 820.31 of the Code of Ordinance Regarding Park Dedication and Open Spaces**

Adams reviewed the dates this ordinance was last updated and that the Park Commission reviewed this matter at its January 20, 2010 meeting, discussed the fairness between residential and commercial fees, and recommended a reduction in commercial park dedication from 10% to 8%. The Park Commission also acknowledged that this revision will result in a loss of revenue and the capital improvement program has numerous projects to utilize the funds for park and trail improvements. Adams read the current and recommended language revision and explained the policy and credit given for an existing lot of record. He stated there will be a technical revision to Subd. 1 of the draft ordinance. It should be 10% of land dedication and in Subd. 2 the word "equivalent" should be removed since there is no longer a statutory requirement. Adams displayed a chart comparing the park fees charged by other cities.

Adams stated if there is an open property of 10 buildable acres that has 1 acre of a highly valuable natural resource that the City wants to protect, that 1 acre could be deducted and the rest of the park dedication quantified on the remaining 9 acres. Staff will be working on language for resolutions or development agreements to assure the 1 acre area would be protected and allow some credit up front. Smith noted this option would also provide an incentive to not develop it.

Batty noted the language "punts" a little bit because it says "in a manner approved by the City" and there may be a number of ways to do that. He stated the City will need to develop a list of ways it would be "acceptable" to the City. Batty explained that with an easement, the City gets more stringent protection and it would be like the property is dedicated so the property owner should get full credit as a dedication. It was noted that Staff will refine the language to assure the City actually receives the documentation.

Crosby stated this is ultimately a Planning Commission issue with consultation from the Park Commission. Adams stated the matter will go before both Commissions but, technically, the Park Commission has been the recommending body on park and open space issues. Crosby raised the issue of timing when a development is under consideration. Adams stated review of development considerations regarding park dedication is generally done by both Commissions within one week.

The Council discussed the impact of an 8% park dedication fee to revenue. Smith stated even at 10% there would still not be enough money to do everything in the parks, and that park dedication fees will not be sufficient funding. Crosby stated that given the connection fees in Medina, he is comfortable with being in the mid-range for park dedication and support 8%. Smith and Weir concurred.

Crosby referenced Page 2, and suggested adding "d) or other project of a capital nature." Batty advised that statutory language is contained in a) and b) and c). Crosby stated if it is statutory language he would withdraw his suggestion.

Smith stated the Park Commission also discussed the high cost to maintain and sealcoat trails and, at some point, Medina may need to talk to the League of Minnesota Cities or Association of Cities to support legislation and financial flexibility to maintain City parks. Crosby stated the ordinance language includes “the improvement of parks” and noted that Wayzata removed and rebuilt a park building, probably using park dedication fees. Batty clarified that capital replacement can use park dedication fees but not on-going maintenance.

*Moved by Weir, seconded by Smith, to adopt the Ordinance amending Section 820.31 of the Code of Ordinances regarding park dedication and open spaces. **Motion passed unanimously.***

1. **Resolution Authorizing Publication of Ordinance by Title and Summary**

*Moved by Weir, seconded by Smith, to approve a resolution authorizing the publication of the Ordinance by title and summary. **Motion passed unanimously***

**VIII. CITY ADMINISTRATOR REPORT**

None.

**IX. MAYOR & CITY COUNCIL REPORTS**

Crosby reviewed the topics he had discussed with Adams during their meeting.

Weir stated she has talked to a volunteer coordinator at Gramercy about encouraging Gramercy residents to volunteer in schools so they remain involved and supportive of future financial operations of the school.

Smith reported that staff from the MPCA will give a presentation at the upcoming Northwest League meeting on the State’s program for green cities and best management practices. She stated the MPCA may be offering assistance in recognition of cities that have green practices.

Crosby noted that Weir has been working on the Lake Sarah TMDL and *South Crow River News* has included a lot of articles on that issue. Weir agreed they did a nice job on the news article and stated she will meet with Randy Lehr, Three Rivers Park District, about a discrepancy in the figures before making a recommendation.

Crosby stated he had also discussed the City’s investments with Adams because he wanted to assure the City was within the FDIC regulations. Adams explained the City’s investment policy allows going up to \$250,000, which is within FDIC. When a CD is purchased, staff reviews investment options and interest rates from two different brokers and picks the CD that meets the City’s ladder schedule.

**X. APPROVAL TO PAY THE BILLS**

*Moved by Weir, seconded by Smith, to approve the bills, approve the bills, EFT 000654-000665 for \$28,661.35 and order check numbers 035062-035103 for \$101,303.61, and payroll EFT 502545-502569 for \$42,066.83. **Motion passed unanimously.***

**XI. ADJOURN**

*Moved by Weir, seconded by Siitari, to adjourn the meeting at 8:47 p.m. **Motion passed unanimously.***

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T.M. Crosby, Jr., Mayor

Attest:

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Chad M. Adams, City Administrator-Clerk