

## **MEDINA CITY COUNCIL MEETING MINUTES OF FEBRUARY 7, 2017**

The City Council of Medina, Minnesota met in regular session on February 7, 2017 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

### **I. ROLL CALL**

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

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Jim Stremel, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, and Chief of Police Ed Belland

### **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 January 17, 2017 Regular City Council Meeting Minutes**

It was noted on page five, line 36, it should state, "...site size..." On page six, line one, it should state, "...~~setup~~ set up..." On page six, line four, it should state, "...~~setup~~ set up..."

*Moved by Anderson, seconded by Pederson, to approve the January 17, 2017 regular City Council meeting minutes as amended. **Motion passed unanimously.***

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

- A. Approve Ball Field Rental Agreement with Orono Baseball**
- B. Resolution No. 2017-05 Authorizing Publication of Ordinance No. 607 by Title and Summary**
- C. Appoint Ella Kingsley as Youth Member to the Medina Park Commission**
- D. Resolution No. 2017-06 Accepting Bids and Awarding the Contract for the Water Tower Rehabilitation Project**
- E. Resolution No. 2017-07 Denying Preliminary Plat for Proposed Subdivision by Ellis and Nancy Olkon at 2362 Willow Drive**
- F. Resolution No. 2017-08 Approving a Comprehensive Plan Amendment for Woodridge Church at 1542 County Road 24**
- G. Ordinance No. 608 Amending the Official Zoning Map to Rezone 1542 County Road 24 to Rural Public/Semi-Public**
- H. Resolution No. 2017-09 Authorizing Publication of the Ordinance Amending the Official Zoning Map to Rezone 1542 County Road 24 to Rural Public/Semi-Public**
- I. Resolution No. 2017-10 Approving a Lot Combination for Woodridge Church at 1500 & 1542 County Road 24**
- J. Resolution No. 2017-11 Approving a Conditional Use Permit Amendment & Site Plan Review for Woodridge Church**

- K. **Resolution No. 2017-12 Approving an Interim Use Permit for Woodridge Church to Permit the Continuation of a Residential Use on the Site**
- L. **Approve Construction Cooperative Agreement No. PW 67-36-16 Highway 55 and CSAH 115; County Road 116; C.P. 0918**

Johnson referenced Item D and asked Stremel to provide an update as the bids were below the engineer's estimate.

Stremel reported that a total of five bids were received for the project with a range around the engineer's estimate. He stated that the low bid was \$267,250 compared to the engineer's estimate of \$339,300.

Mitchell stated that the City took a low bid recently that did not work out well and asked if this will be better.

Johnson stated that WSB and other municipalities have experience with the contractor and staff will keep an eye on the project. He also referenced Item L and noted that alternate bid language is included for the quiet zone.

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

#### **VI. COMMENTS (7:05 p.m.)**

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

There were none.

##### **B. Park Commission**

Scherer reported that the Park Commission discussed the parks and trails section of the Comprehensive Plan as well as the concept plan for the Marx property. He stated that the big concern was the horse trail around the lake and the Commission wanted to secure trail easements to protect that trail.

##### **C. Planning Commission**

It was noted that the Planning Commission did not meet since the last Council meeting.

#### **VII. NEW BUSINESS**

##### **A. Conservation Design-PUD Ordinance Discussion (7:07 p.m.)**

Johnson noted that at a previous Council meeting the Council requested background information on how the ordinance was developed which has been provided in the packet for the review of the Council. He noted that this is open for discussion as requested by the City Council.

Sparks provided a brief summary of the background information. He noted that the ordinance could continue as written or the Council could choose to further discuss the topic.

Mitchell stated that the City is in the middle of the Comprehensive Plan process and this is an important part of that. He stated that the object is to discuss the packet information tonight and then obtain input from Finke when he is available.

Cousineau commented that there was a lot of work and comparative analysis done to develop this ordinance. She stated that in her opinion this is a good ordinance that keeps the control in the hands of the City. She stated that how the City implements the ordinance is what matters, noting that the City has the discretion whether or not to award the density bonus and therefore she is comfortable with the ordinance.

Martin echoed the comments of Cousineau. She stated that she was a part of the process when the ordinance was developed and felt that it was a comprehensive process and was well studied. She stated that if the ordinance were to be reviewed again, she would strengthen it a bit not by decreasing the density bonus but enhancing language regarding discretion and tree preservation. She stated that any type of maximum density should call for some type of public access. She stated that she would like to keep the density bonus but it should be made clear that it is only earned through an absolute homerun and providing access to residents. She stated that this ordinance allows the City to protect elements that they would not normally be able to protect as the land develops. She stated that the preservation not only has an impact today but also for residents of Medina in the future. She stated that the Comprehensive Plan speaks of preserving the rural character of Medina and this is one way to do it.

Pederson agreed with the comments thus far noting that discretion is a big element. He explained that in order for someone to earn the maximum density bonus, someone would really have to present something special.

Martin asked staff to look at the ordinance with that in mind, keeping in mind the discretion element and the public access towards the front of the discussion.

Batty stated that the Council did discuss that on December 20<sup>th</sup> and directed staff to prepare some ordinance amendments to more closely link the conservation goals with the incentives. He noted that Finke is attempting to do that, but on January 3<sup>rd</sup>, the discussion was related to how the City got to the 200 percent density bonus and therefore the information in the packet is in response to that question. He stated that staff intends to address those questions and bring back an amended ordinance.

Anderson asked if there is interest from the Council in tying density bonus incentives to the number of homes proposed by the applicant, noting that perhaps the 200 percent density bonus be linked to a lesser number of homes. Cousineau stated the ordinance might be better suited for larger parcels rather than the smaller ones in the ordinance, i.e. 40 acres as currently defined.

Martin stated that the concept of discussing the impact of the homes being developed and the surrounding neighborhood is good, but noted that she would not want to see that tied to a number of homes. She stated that there should be flexibility. She stated that a lot of these things are in the ordinance but could be made more clear.

Mitchell stated that 30 years ago, there was not a conservation design subdivision ordinance. He stated that he lives on Willow Drive near Medina Morningside, which is a suburban neighborhood with smaller lots. He stated that he is aware of the difference between rural development and suburban development. He stated that his concern is that in the middle of a rural area you would create a more dense/suburban neighborhood. He referenced an agreement with the Metropolitan Council that brought

sewer to Hamel and stated that he is concerned that this additional density could have an impact on that.

Martin noted that this ordinance provides the conservation of the rural Medina elements and providing a great trail system that can be enjoyed by all the residents, those that live in the rural areas and those that live in the suburban areas. She stated that a density drive will come back again from the Metropolitan Council sometime in the future and this will allow the City to preserve tracts of land from falling into regular suburban development.

Mitchell stated that he would like to see the density bonus lower than 200 percent or at least strengthening of what is being protected.

Martin stated that she would not want to narrow the latitude of future Council's to give the right incentive to the right project.

Batty stated that the ordinance allows discretion, which is key. He stated that the other thing that arose is that it is probably a mistake to only focus on the percentage and instead look at the absolute number of lots. He used the example of doubling two or three compared to doubling 20 or 30 lots. He noted that if there is going to be a large doubling of lots, then the City should be getting more in terms of conservation.

Johnson noted that staff can review the language and bring the topic back for further discussion.

Martin noted that it is the discretion of the Council and therefore she would not want to see the bargaining ability of the City reduced.

Cousineau stated that her fear is that the City is not using their discretion and should be using that more. She wanted to ensure that the Council knows they are empowered.

Martin stated that the Council has said no twice and the one that was approved was under the settlement agreement.

**B. Wally Marx – Conservation Design Subdivision PUD Concept Plan – 2500-2900 Parkview Drive (7:46 p.m.)**

Johnson noted that this was first brought forward to the Council in 2010/2011 but the property was found to be in agricultural preserve and therefore had to wait until 2016.

Sparks stated that the property is currently three parcels that would be proposed to be developed into six lots. He stated that of the 90 acres, about 70 acres would be in easement and of that 40 percent would qualify for the buildable acre clause. He stated that this property is currently zoned and guided for rural residential use. He stated that the property includes two areas of moderate quality maple basswood forest and a good quality tamarack swamp land that were identified in the open space report. He noted that those elements would be proposed to be conserved. He explained the purpose of the ordinance, which creates and protects the conservation ordinance. He stated that the base density of the three parcels would allow three lots, and therefore this would be a 200 percent density bonus. He noted that they are proposing conservation of 77.6 percent of the site. He provided additional details on the lot layouts, access, and septic locations. He stated that the purpose of a concept plan is for the applicant to gain input

from the Commissions and Council in regard to what they would be expecting when the applicant submits their actual application. He noted that the staff conditions were included in the packet along with the comments of the Planning and Park Commissions. He stated that a neighboring property owner submitted a letter stating that they did not like the number of units proposed for the property.

Martin referenced the applicant's concept plan and the four septic sites, asking for clarification on locations and the types of trees in those areas.

Sparks noted that the specific area had boxelder trees.

Cousineau asked if the trees could be restored to create a corridor.

Sparks agreed that the area is lower quality but could be restored to a higher quality with some work. He noted that restoration of some of the woodlands would improve the quality.

Martin referenced the staff concept plan and asked where on the property homes could be placed. She asked for, and received, clarification on certain elements of the plans. She referenced a man-made wetland on the property and asked if there is a difference in protection.

Mark Gronberg, Gronberg and Associates, replied that the wetland has been delineated as a wetland and therefore there is no difference.

Laura Domyancich, Minnehaha Creek Watershed District, stated that if there is a wetland on the plan that has been delineated as a wetland but does not have a classification it would not have the same protection as a wetland. She stated that if preservation of the wetland is desired a MnRam would need to be done for the wetland to determine a management plan and classification.

Kent Williams, 1632 Homestead Trail, stated that he is speaking on behalf of the applicants at their request. He stated that the applicant submitted a narrative with the concept plan, noting that this is the third time Mr. Marx has come to the Council with an attempted project. He stated that under any measure this project is one that provides significant value to the City. He stated that the Marx family purchased the land in 1998 and spent 20 years restoring the property, as it was previously a pig farm. He stated this is one of the last few groves of trees left and would be protected. He stated that the Marx family has proposed to put 40 percent of buildable land into conservation easement, noting that there has not been a request that has come before the City with that high of a percentage. He noted that the percentage of buildable land is quite low already for this property and therefore this is a significant sacrifice. He stated that the conservation elements that are being protected through the easements should justify the density bonus itself. He noted that it is important to note that on top of the buildable land, the Marx family would be conserving another 60 acres of unbuildable land. He noted that they are not asking for a large number of homes in return for this conservation, they simply believe in the conservation of the land. He highlighted the conservation benefits that would be provided through this proposal. He highlighted what would happen under normal development of this property, which would create three lots and the future landowners could do a lot of things with their land, outside of building, that could be detrimental to the natural features. He stated that this is a harmonious plan

with a single easement holder and would provide a benefit to the City. He stated that this provides more conserved land and less buildable homes than any application before. He referenced the park dedication requirement for the horse trail around the lake. He stated that the lake is entirely private at this time, along with the horse trail, and is used by invitation only and not used by the public. He stated that there has been pushback from the neighbors on the lake that they do not want that path open to the public at large and those neighbors would close their segments of the trail. He also noted that there would be issues with parking for people attempting to access the trail. He noted that there was a lengthy discussion at the Park Commission meeting. He noted that an alternate trail location was discussed in the southern portion of the property, which would keep the trail away from the homes. He noted that the intent then would be for it to be a nature trail. He stated that the Park Commission wanted the ability to provide trail connection to the properties east and west. He noted that there are not currently trails to the east or west. He noted that the applicant is conserving not only the required buildable land but also 60 additional acres of non-buildable land and therefore asked that the Council waive the requirement for park dedication. He stated that a lot of thought went into this concept plan.

Martin referenced a gravel drive and asked if the existing configuration would continue or whether there would be a relocation. It was noted this is the existing horse trail. She stated that on the applicant's proposal she noticed buildable area that is going into conservation and compared that to the staff plan. She also noted what seemed to be a straight line of trees and asked for more information.

Wally Marx replied that the line of trees is very straight because they purchased the land in 1998 and there were 400 hogs on the property before they purchased the property. He noted that the pigs devastated the land. He stated that in order to create more conserved land they have limited the housing footprint to one acre each.

Charlie Schroder, 2910 Parkview, stated that they are the neighbor immediately to the north and are present to understand what is going on. He stated that they are new neighbors and have found this background information to be helpful. He asked how the PUD is superior to the conventional development, as he did not quite see how the land would be better under the PUD. He stated that having the trail open to the public would be problematic with parking. He stated that a north/south trail on Parkview would be objectional. He stated that this seems like a lot of density relative to a conventional development plan.

Pederson stated that he was on the Council in 2011 and stated that this request is considerably better than that request. He stated that he has concerns with the proximity to the lake. He stated that the trail would be problematic because the other property owners do not want that. He stated that with the trails at Baker Park he was unsure why additional trails would be needed here. He stated that it would be difficult to give up park dedication, noting that he does not have any interest in dropping park dedication.

Mitchell provided background information on the Long Lake Hounds.

Anderson agreed that this is a substantially better plan than what was presented in 2011. He stated that he does have concerns with the closeness of lots one and two. He stated that it seems that the buildable acreage is in pieces rather than one contiguous

piece and therefore could not find how it would benefit the City. He agreed that the park dedication should not be waived.

Williams stated that they attempted to not make the conservation areas fragmented. He noted that the green and yellow areas are proposed for preservation, identifying corridors.

Martin stated that lots one and two seem close together and would also need a variance. She stated that other than that she likes the fragmentation of the lots as it seems more rural and less planned. She stated that there was conscious thought from the applicant to preserve land in corridors. She stated that she would want the conservation areas to be placed in outlots to minimize the amount of conserved areas within the lots. She asked which areas were the highest value in terms on conservation, noting that the tamarack swamp is high quality but would be protected as a wetland. She stated that the maple basswood forest would protect the tree line and view shed from the road. She stated that perhaps there could be a trail that would provide a vista of the lake. She stated that she would avoid the horse trail. She stated that she would preserve a trail further east that could be built out at a further time. She stated that she would give park dedication for trails that are built. She stated that she would like to see protection of the wooded areas more and would recommend the staff suggestion for layout with a trail that could overlook the lake. She stated that she would like to see the setbacks met and would keep the roads out of the middle woodland area to loop around a bit more as staff recommended.

Cousineau stated that she appreciates that staff moved lot three to the southern part, but noted that it seems that may be crowded. She stated that she would support a trail becoming public overlooking a vista of the lake but would not support the horse trail. She stated that park dedication is important.

Mitchell stated that he just does not understand it, as it seems that this is attempting to get ten pounds of flour into a five-pound sack. He stated that in the rural area the effort is for less houses. He stated that he does not see any public benefit to this land. He stated that he does not understand how the little bits of yellow on the map would be justification for double density. He stated that three homes would preserve the most trees, the animal corridor, the marshes, and wetlands. He stated that he does not see that this meets the minimum ordinance standards.

Williams stated that there seems to be a misunderstanding of what could be done and what could not be done under conservation or regular ownership. He stated that the property owner could buy wetland mitigation credits and fill wetlands. He stated that the natural elements could be left to the whim of a future land owner or they could choose to protect and conserve the rare and disappearing elements that exist on the land. He stated that you would not get the same level of land stewardship and management under this request compared to traditional development.

Cousineau stated that if you go to five homes, there is already one home and you would only be adding four homes. She stated that this is a large area of land and therefore would be comfortable with some additional homes.

Anderson asked if the applicant feels that they received feedback from the Council.

Williams stated that it seems that there is some antagonism towards the ordinance itself rather than the project. He stated that if you hate the ordinance you can say no to every request, noting that there will not be a lot of these requests. He stated that it does not seem that this should rise or fall on five or six homes when the applicants would be conserving 70 acres of land. He stated that the conservation aspects on this request far exceed what was gained through Stonegate, and this request is only asking for three additional homes. He appreciated the honest feedback but felt that the Council is providing negative comments against the ordinance itself.

Cousineau stated that lots one and two do not conform to the DNR shoreline regulations. She agreed that this was a hot topic tonight but noted that there would have to be some conformity in order to discuss the 200 percent density bonus.

Williams stated that if the parcels should be expanded, it would make them more saleable as they would gain more shoreland. He explained that the lots are smaller because of the conserved shoreline. He did not feel they would have trouble presenting the case to the DNR.

Mitchell stated that it seems that they could just do a PUD to approve additional lots.

Batty stated that is not what the applicant has requested and would have different standards for review.

Mitchell stated that he did not understand how this would meet the objectives of the conservation design ordinance.

Michael Pressman stated that he has spent about 25 years on conservation development, as this is his career. He stated that he began looking at this property when he was working with the Minnehaha Creek Watershed District and he made an offer at that time to purchase a conservation easement to secure what is proposed to the City for free. He stated that he secured an easement to the north. He stated that he was attracted to this property because of the natural features of the site. He noted that while the yellow area may seem small that is connected to the green areas that would also be preserved. He stated that he joined his profession to look ahead and ensure conservation when changes come in the future. He stated that this project has come before the Council three times now. He stated that this site contains areas identified in the City's open space plan and meet the requirements of the ordinance.

Martin asked how many homes could be built on this property if this property were rezoned in the future as single family detached or attached.

## **VIII. OLD BUSINESS**

### **A. 2020-2040 Comprehensive Plan Update (9:09 p.m.)**

Johnson stated that the first seven chapters of the draft Comprehensive Plan are before the Council, noting that the additional chapters will be brought forward on February 21<sup>st</sup> and at that time staff will ask for the direction of the Council to route the plan to affected jurisdictions.

Pederson recused himself from the discussion.

Anderson stated that he does not have any additional comments.

Cousineau referenced the land use, noting a mention of options to improve north/south travel. She also asked if we shouldn't add the five acres of suitable soils into the new Comprehensive Plan as stated in the existing Comprehensive Plan.

Martin stated that at one time the language had been stronger but there was a discussion that this route would be better because of the desire for one community that is able to reach each other efficiently. She stated that they also like the ability for roads to curve and twist and therefore the language was softened.

Mitchell noted that a rural community has rural roadways and does not have roadways that cut through every community. He stated that they intentionally have avoided going through the wetland.

Pederson rejoined the Council.

#### **IX. CITY ADMINISTRATOR REPORT (9:22 p.m.)**

Johnson stated that there was one comment regarding the Olkon request that was included in the record under the Consent Agenda. He stated that the meeting regarding the speed studies on CR 101, CR 116, and CR 19 were held on January 25<sup>th</sup> and there were about 40 residents in attendance. He informed Council that the County has stated that they do expect that the speed would be increased if the speed study is completed on CR 101. He noted that they are talking with residents to determine the best course of action. He stated that the speed study on CR 116 was delayed until the improvements are made. He stated that the speed study for CR 19 may also be put on hold as those speeds could increase as well.

#### **X. MAYOR & CITY COUNCIL REPORTS (9:25 p.m.)**

Mitchell stated that he and Johnson attended the I-94 luncheon the previous week and Johnson provided a presentation on what Medina has done in the past 12 months. He stated that this was an opportunity for the cities involved in the I-94 corridor and chamber to alert the other communities as to what they are doing. He stated that the difference is that those communities that want large commercial development are right on I-94 and are way beyond what Medina is able to do.

Martin stated that she touched base with the fire departments this past week and it seems to be going well. She noted that the first step in group training would be to use the same software. She stated that she was also present for the Hamel Fire Department quarterly report.

#### **XI. APPROVAL TO PAY THE BILLS (9:27 p.m.)**

*Moved by Anderson, seconded by Pederson, to approve the bills, EFT 003996E-004024E for \$1,537,467.59, order check numbers 045443-045504 for \$312,556.19, and payroll EFT 507684-50709 for \$49,540.88. **Motion passed unanimously.***

#### **XII. ADJOURN**

*Moved by Anderson, seconded by Cousineau, to adjourn the meeting at 9:28 p.m. **Motion passed unanimously.***

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Bob Mitchell, Mayor

Attest:

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Jodi M. Gallup, City Clerk