

## MEDINA CITY COUNCIL MEETING MINUTES OF FEBRUARY 21, 2012

The City Council of Medina, Minnesota met in regular session on February 21, 2012 at 7:07 p.m. in the City Hall Chambers. Mayor Crosby presided.

### **I. ROLL CALL**

**Members present:** Crosby, Pederson, Siitari, and Weir.

**Members absent:** Martinson.

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, City Administrator Scott Johnson, Chief of Police Ed Belland, and Recording Secretary Amanda Staple.

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

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

Crosby noted that Mr. Zeroni was unable to attend the meeting tonight and stated that staff is attempting to reschedule that presentation for the March 21<sup>st</sup> meeting.

*The agenda was accepted as presented.*

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

#### **A. Approval of the January 17, 2012 Regular City Council Meeting Minutes**

It was noted on page six, line 24, it should state, "...City is not equipped..." On page seven, line 19, it should state, "...of up to two years to reach reduce from nine to five dogs..." On page nine, line 12, it should state, "...Hennepin County Sheriff Rich Stanek relating to the possibility of the County charging for dispatching services." On page nine, line 14, it should state, "...City wait until the opinions on that matter are received..."

*Moved by Pederson, seconded by Siitari, to approve the January 17, 2012 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Approve Raffle Permit to/at Holy Name of Jesus Church on March 17, 2012**

#### **B. Approve Temporary On-Sale Liquor License to/at Holy Name of Jesus Church on March 17, 2012**

#### **C. Approve Carpet Replacement Installation Services Agreement at the Hamel Community Building**

#### **D. Approve Hamel Community Building Operations and Maintenance Agreement with the Hamel Lions**

#### **E. Approve Portable Sanitation Services Agreement with On Site Sanitation**

#### **F. Accept 2012 Work Plan Goals**

#### **G. Extend Employment of Associate Planner Dale Cooney for GPS Services**

#### **H. Call for Meeting for Business Forum and Business Tours on March 27, 2012 at 7:30 a.m.**

#### **I. Support Grant for DNR Watercraft Inspection of Invasive Species Program**

- J. Resolution No. 2012-09 Accepting Donation from Office of Traffic Safety
- K. Resolution No. 2012-10 Approving State of Minnesota Joint Powers Agreement with City of Medina on Behalf of its City Attorney and Police Department
- L. Resolution No. 2012-11 Regarding Medina Economic Development Authority Enabling Resolution
- M. Resolution No. 2012-12 Approving a Setback Variance to Sarah Borchers and Brian Kingsley for a Pool to be Constructed at 1512 Tamarack Drive
- N. Ordinance Amending 200.03 Council Procedures for Special Meetings  
*Moved by Weir, seconded by Pederson, to approve the consent agenda as amended.*  
**Motion passed unanimously.**

Crosby noted that the item removed from the Consent Agenda (Ordinance Amending 200.03 Council Procedures for Special Meetings) would be discussed at a later date.

## VI. PRESENTATIONS

### A. Xcel Energy's Proposed Hollydale Transmission Line Presentation

Crosby stated that a concern had arisen from the action which the City took previously, noting that the City had submitted a letter in agreement with the decision of the Task Force for the Hollydale transmission line project, and provided background information regarding the proposed project. He stated that the plan for tonight was to have the individual who has been active on this project in Plymouth speak to the Council and residents, but noted that Mr. Zeroni was not able to attend and staff would attempt to reschedule that presentation for March 20<sup>th</sup>.

Johnson stated that the completion of the environmental assessment is scheduled for February 29<sup>th</sup> and reviewed the steps which would follow that action. He noted that the final decision date would most likely occur in May or June, and encouraged concerned residents to voice their concern during the comment period.

Crosby confirmed that this is a State project and the City of Medina does not have much influence.

Eleanor Degman, Gramercy, stated that she met with a representative from Xcel six years ago regarding the limited amount of power in this area which affects her building and the elevator service, and was told at that time that there was no plan to bring additional power into the area. She commented that there are still problems occurring which are affecting the building and elevators and questioned if this plan would bring additional power into the area.

Pederson confirmed that there are problems with the power in Gramercy and noted that the area often experiences power outages.

Johnson noted that he would follow up with the representative from the State, or Xcel, to determine if this issue would be addressed.

## VII. COMMENTS

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

Marran McNulty, Gramercy, presented a petition to the Council regarding the blue light at the gas station. She stated that the residents are requesting that the Council take a second look at the blue light at the Holiday Station, as the residents find this light to be invasive. She stated that she has visited other Holiday Station stores and while not all the stores have the blue light, the other stores which have the blue light direct that light into a commercial area rather than directly into a residential area. She explained that the blue glare causes some residents to keep their blinds shut all day and night to avoid the distraction. She stated that this light could also cause interested buyers to choose another place to live rather than this building.

Crosby noted that the Council cannot take action on items brought forward during this portion of the agenda. He suggested that this item be placed on the agenda for the next Council meeting to allow further discussion.

Finke explained that the update was made in the past two to three months. He advised that the lighting change did not require a permit but noted that the lights were previously found to be too bright and believed that they had been dimmed since that time. He advised that he would follow up on this item.

Siitari asked if anyone from Gramercy had been to Holiday to ask them to be a good neighbor.

Ms. McNulty stated that would be her next step.

Weir advised that Holiday is also in the process of requesting an interactive sign, which will be going through the Planning Commission soon, and noted that interested residents could attend that meeting.

**B. Park Commission**

Park Commissioner Waytas provided a brief update of the previous meeting. He noted the dates of upcoming Park Commission events, including the Annual Park Tour. He stated that the Commission has been in discussion regarding the development of a new park and is also rating the existing parks including features, priorities, and maintenance.

**C. Planning Commission**

Planning Commissioner Anderson advised that the Commission met the previous week to discuss a text amendment regarding signage, and summarized the items which were highlighted during that discussion. He noted that the Commission also discussed a proposal from Lennar regarding a PUD concept for an additional 116 single family homes to be located on 48.6 acres, located west of Brockton Lane and South of Hamel Legion Park. He advised that the Commission rejected the PUD Concept Plan and noted that Lennar would most likely return with a revised Concept Plan.

**VIII. OLD BUSINESS**

**A. Wallace Marx – Planned Unit Development (PUD) Concept Plan for a Conservation Design Subdivision**

Jim Lane stated that he is Mr. Marx special counsel on this matter and noted that his presentation would be brief and simply include the revisions to the Plan. He stated that this Plan has been extensively reviewed and commented on, by Medina staff, and noted

that his team has taken those suggestions to heart and has therefore revised the Plan. He provided background information regarding the process thus far and asked that the Council make the decision to use their flexibility in density to grant four bonus lots in addition to the existing four lots, for a total of eight lots.

Jean Coleman stated that she has had the pleasure of working with staff on this case. She displayed a map of the City's Open Space Plan priority areas and identified the high level of resources on the Marx property. She explained that the proposal in front of the Council provides the City with the ability to preserve the resources identified in the City's Open Space Plan.

Michael Pressman explained the differences between regular development of this property and the proposed conservation development of this area, and identified the benefits to developing the property in the method proposed. He advised that there are 110 acres on this property and noted the high percentage of area that would be included in the conservation area and gardens.

Crosby asked for additional information regarding the calculations which would allow up to eight lots.

Coleman stated that it is her understanding that the Council has the ability to allow up to 200 percent of the base density and explained her calculations in determining the base density.

Crosby stated that in his interpretation, under the current Ordinance, the Council would not have the ability to allow more than seven lots.

Lane explained that the base density argument is based on the four existing lots along with the justification of an additional bonus lot, which would bring the total from seven to eight.

Crosby stated that it is clear that today, without doing anything, there is the ability to have four residences but stated that he was having a hard time finding the justification for more than seven lots. He explained that this was simply the interpretation of the Ordinance as written.

Batty agreed that it is not uncommon to allow a degree of flexibility in the interpretation of the Ordinance, which would bring the total to seven lots. He stated that while he did understand the argument that the quality of the wetland should allow an additional bonus, he agreed with the decision from staff that would bring the total number of lots to seven.

Mark Luetmer, 2920-2930 Parkview Drive, stated that he was present to ask that no additional bonus lots be allowed for the Marx PUD. He reviewed comments which had been made at previous Council and Planning Commission meetings regarding this proposed development. He believed that the new Ordinance should not be applied to this property and suggested that the Ordinance be rewritten. He did not see that this project would provide a conservation benefit to the City. He believed that this proposed development would provide less of a benefit than if the property were developed under normal circumstances.

Brian McCool, representing the Bernu residence at 2910 Parkview Drive, addressed the Council and did not believe that the City Council was in any position to grant any type of approval to this request. He addressed the issue of base density, identifying two areas of the property which exceed the five acres of contiguous soils, and believed that under those calculations there would be three allowed lots. He explained that the 200 percent would then allow up to six lots. He commented that much of the land which will be placed in the conservation area is already undevelopable and therefore would not benefit from the conservation easement. He believed that Mr. Marx is attempting to lock in the approval prematurely. He believed that the needed amendments to the Comprehensive Plan should be made prior to any approval. He asked that the Council deny concept approval. He explained that when his client purchased his property, it was their understanding that this area would be rurally developed.

Batty explained that under this Ordinance, Concept Plan approval would provide more rights than what is normally allowed.

Finke explained that approval of the Concept Plan does not provide implicit rights for future approval.

Bob Bernu, 2910 Parkview Drive, addressed the Council and noted that it was his understanding that this area would be rurally developed. He stated that he invested in his property because it was his understanding that the surrounding area would be developed under low density. He believed that not long ago Mr. Marx agreed with his position on low density and referenced meetings in 2005 and 2006, where Mr. Marx addressed the City on this position.

Batty stated that while he has not seen the letter from Mr. McCool, he is in agreement with the calculations used by staff to reach a total of seven lots.

Finke again explained the calculations used by staff to reach a total of seven lots for this proposed development. He noted that the outmost lot could be removed from this proposal, which would leave three lots. He explained that those lots could be doubled to six and then the additional lot, which remained out of the calculations, would still total seven.

Richard Haberman, 2782 Parkview Drive, addressed the Council and stated that he is also in opposition of the project. He noted his concern in regard to the effect that eight additional lots could have on the value of surrounding properties. He stated that he lives on the hill and already experiences problems with traffic. He stated that additional lots would also have an effect on the traffic levels.

Crosby referenced the letters submitted during the Planning Commission meeting.

Finke stated that the letter from Mr. McCool was included with the Planning Commission meeting record.

Lane stated that another letter was from Ms. Piper in regard to the School Lake Trail.

Scott Rickford, 2822 Parkview Lane, stated that he agrees with the comments made by his neighbors tonight in opposition of this project. He stated that he did not believe that there was enough information to move forward at this time.

Crosby agreed that he was unsure that this was ready to move forward. He asked that Batty and Finke further review the total number of lots which could be developed through this process.

Weir stated that the northern land already merits three lots, which under the 200 percent, would total six lots. She advised that the other existing lot on the southern parcel would equal a total of seven lots. She believed that there would be discretion under the Ordinance.

Finke explained that a standard PUD would allow for additional flexibility but noted that there is a difference between the regular PUD process and Conservation Design PUD.

Crosby stated that the benefit to the City would be that this valuable area would remain in conservation, rather than developed once sewer reaches that point of the City. He stated that it is very important to him that the Council stay within the Ordinance, and asked that staff further research the total number of allowable lots to ensure that the proposal fits within the Ordinance requirements.

Weir stated that she had misinterpreted the information and agreed with Crosby.

Pederson stated that he would not want to cause problems for a future Council.

Batty explained that the Council would need to act on a Concept Plan request. He agreed that this approval could be considered premature, as there is an agricultural preserve on some of the land which does not expire for another four years, and noted that no action could occur for development until that expires.

Siitari agreed that he believed this action would be premature. He stated that he is uncomfortable with this Plan and would vote against the request.

Batty confirmed that if the Council granted Concept Plan approval, language would have to be included which addresses the expiration of the agricultural preserve. He noted that land uses and zoning changes could not occur until after the agricultural preserve expires.

Lane stated that he has discussed the timing issue with Batty and the applicant is willing to undertake the risk included in obtaining approval at this point, with the understanding that the agricultural preserve would need to expire and things could change by that time.

Pederson stated that he would be in opposition of eight lots and would like to hear additional information from staff regarding the calculations which would allow seven lots.

Weir stated that she is in agreement with the request and would like to see this area conserved. She noted that the MET Council has direction which would allow much more development on the property in the future. She stated that she would like to see closer to 40 percent conservation of the site.

Crosby asked for clarification regarding cluster housing and confirmed that normal development would make it possible to cluster four homes into lots one and two on the property. He stated that he was not prepared to move forward on this request tonight as

he felt that additional information would be needed in regard to the calculations to allow bonus lots. He stated that ultimately the proposal is suggesting seven homes to be built on over 100 acres, which he would not oppose, but again noted that he would need to see the information that supports that number. He asked that Batty and Finke to ensure that the Ordinance would allow seven lots and asked that additional clarification be brought back to the Council.

Finke reviewed the recommendations of the Planning Commission to ensure that the Council did not have any additional suggestions.

Weir discussed a possible plan for tree preservation near the lake.

Crosby agreed with the comments made by the Planning Commission and did not believe that the Commission would need to review this Plan yet again.

Haberman asked why the Council is using the maximum amount of 200 percent and instead suggested that 100 percent or 150 percent be used.

*Moved by Weir, seconded by Pederson, to table this request; in the tabling process to have the City Attorney and Planning Director determine that the ordinance on its terms permits seven lots, secondly to look at the revision as to seven lots as to how it would relate to how it was done here in terms of eight lots and lastly have the City Attorney and Planning Director look at language for the timing issue. **Motion passed unanimously.***

Crosby briefly recessed the meeting at 8:55 p.m.

Crosby reconvened the meeting at 9:04 p.m.

## **IX. NEW BUSINESS**

### **A. Rolling Green Business Park, LLC – Easement Vacation – Outlot C, Rolling Green Business Center – Public Hearing**

Finke noted that this item was discussed briefly during the Fields of Medina subdivision project. He explained that one condition of the approval during that process was the vacation of utility easements. He stated that “replacement easements” would be received during the Fields of Medina plat and recommended approval of the vacation. He noted that one condition of this approval would be the filing of the Fields of Medina plat.

Crosby opened the public hearing at 9:07 p.m.

No comments were made.

*Moved by Weir, seconded by Pederson, to close the public hearing at 9:07 p.m. **Motion passed unanimously.***

#### **1. Resolution No. 2012- 13 Vacating Drainage and Utility Easements on Outlot C, Rolling Green Business Center**

*Moved by Weir, seconded by Siitari, to approve Resolution No. 2012-13 Vacating Drainage and Utility Easements on Outlot C, Rolling Green Business Center. **Motion passed unanimously.***

**B. Ordinance No. 520 Amending Section 343 of the Code of Ordinances Regarding Limitations on the Keeping of Animals as Pets**

Finke summarized background information regarding the Ordinance, as written, in regard to cats. He reported that background information regarding the keeping of cats was included in the Council packet and provided options which the Council could review in regard to the keeping and limiting of cats. He stated that it was the recommendation of staff to remove the number limitation in regard to cats and rodents and suggested instead that the nuisance Ordinance be left to address that item.

Belland explained that the Police Department only receives a small amount of calls in regard to cats and small animals. He believed that limiting the number of cats by number would cause a huge increase in calls to the Police Department and also believed that the nuisance Ordinance would provide sufficient ability for enforcement.

Siitari stated that he is in agreement with Belland and also believed that the nuisance Ordinance provides a sufficient tool for handling problems brought forward by the keeping of cats.

Crosby raised the concern over including rodents in this change. He questioned if there are problems with rodents in the City.

Belland stated that he could not recall a complaint call regarding rodents as pets.

*Moved by Weir, seconded by Pederson, to approve Ordinance No. 520 Amending Section 343 of the Code of Ordinances Regarding Limitations on the Keeping of Animals as Pets. **Motion passed unanimously.***

**C. Resolution No. 2012-14 Declaring the Official Intent of the City of Medina, Minnesota, to Purchase and Renovate a Facility for Public Works and Feasibly Police and Possibly Renovate City Hall**

Crosby confirmed that Batty had reviewed the proposed Resolution and approved of the language.

Batty clarified the intent of the Resolution and suggested two alternate words be used to provide that clarity.

*Moved by Weir, seconded by Siitari, to approve Resolution No. 2012-14 Declaring the Official Intent of the City of Medina, Minnesota, to Purchase and Renovate a Facility for Public Works and Feasibly Police and Possibly Renovate City Hall. **Motion passed unanimously.***

Crosby stated that the City has reviewed the needs, and determined that the need for a new water tower is approximately five to ten years in the future. He explained that the City had previously bonded for a new water tower and therefore has funds available which could be used in the Public Works, Police and City Hall projects. He advised that the expenditures would not be increased but a portion of the funding would be supplied through this alternate source.

*Moved by Weir, seconded by Pederson, to call for a public hearing to be held during the regular meeting scheduled on Tuesday, March 20, 2012 in order to approve a five-year*



capital improvement plan for 2012-2016 and approve the use of bond proceeds thereunder. **Motion passed unanimously.**

It is the City's intent to re-allocate up to 1.8 million dollars from the City's 2007A General Obligation Water Revenue Bonds to be used for purposes to be set forth in the 2012-2016 Capital Improvement Plan since the water projects initially financed by the 2007A Bonds have been postponed indefinitely.

## **X. CITY ADMINISTRATOR REPORT**

### **A. The Pioneer Newspaper Coverage**

Johnson thanked Susan Van Cleaf for her help with having information published on Medina in *The Pioneer*.

## **XI. MAYOR & CITY COUNCIL REPORTS**

Crosby stated that he believed the City should develop some sort of policing of the City brush pile, as he believed that a huge number of nonresidents were using the pile. He suggested either fencing or volunteer supervision.

Weir stated that she attended a League of Minnesota Cities meeting where citizen involvement was discussed in regard to a vision statement. She suggested that the item be added as an agenda item.

Johnson noted that the item could be discussed at a Council work session in March.

Crosby stated that the plat for the Wrangler Restaurant site had again expired.

Finke noted that the applicant had been made aware of the expired plat and advised that he would continue to follow up on the item.

Crosby stated that he received a letter from Hennepin County, which lists available programs.

Johnson explained that some cities choose to run some of those programs outside of the County. He noted that the County is asking if the City would like to run any of those programs.

Crosby asked that Johnson provide a report on that matter to Council. He advised that he had signed a grant request which would fund the inspection of boats using the Medina boat launch into Lake Independence. He stated that he also received a settlement feeler letter from Woodridge Church which includes information he believed Johnson should follow up on. He noted that the City of Wayzata lost a similar case.

Johnson explained he would follow up with the attorney.

Batty noted that Wayzata had settled their case.

Crosby announced that he would not be present at the first meeting in March as he will be in Canada.

## **XII. APPROVAL TO PAY THE BILLS**

*Moved by Weir, seconded by Pederson, to approve the bills, EFT 001492E-001538E for \$119,604.42 and order check numbers 037894-038023 for \$508,695.55, and payroll EFT 504019-504098 for \$131,169.36 and payroll check numbers 020333 and 020350-020353 for \$6,099.74. **Motion passed unanimously.***

**XIII. CLOSED SESSION: UNION CONTRACT NEGOTIATIONS**

City Council went into Closed Session at 9:40 PM to discuss the Police Union negotiations. Moved by Weir, seconded by Pederson, to adjourn the meeting to closed session to discuss union contract negotiations at 9:40 p.m. **Motion passed unanimously.**

**XIV. ADJOURN**

*Moved by Pederson, seconded by Weir, to adjourn the meeting at 9:55 p.m. **Motion passed unanimously.***

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T.M. Crosby, Jr., Mayor

Attest:

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Scott Johnson, City Administrator