

MEDINA CITY COUNCIL MEETING MINUTES OF APRIL 17, 2012

The City Council of Medina, Minnesota met in regular session on April 17, 2012 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

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

Members absent: Siitari.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Scott Johnson, and Chief of Police Ed Belland.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

Crosby requested the addition to the agenda, under Presentations, Steve Tallen, Criminal Attorney for Medina.

*Moved by Weir, seconded by Pederson, to approve the agenda as amended. **Motion passed unanimously.***

IV. APPROVAL OF MINUTES

A. Approval of the April 3, 2012 Regular City Council Meeting Minutes

It was noted on page two, line 47, the following sentence should be added, "Mayor Marvin Johnson and Councilmember Linda Betz were in attendance." On page three, line 32, it should state, "...units for Vinland now." On page three, line eight, it should state, "...is are." On page four, line five, "...refreshed reviewed, addressing the I & I, there is no inference for future approval ~~for phase III~~ of the Vinland National expansion beyond phase I." On page four, line 24, it should state, "...Clamecorp Clam Corp." On page four, line 22, it should state, "...the City water fund currently has \$1,800,000..." On page five, line 26, it should state, "...New Years Eve day."

*Moved by Weir, seconded by Pederson, to approve the April 3, 2012 regular City Council meeting minutes as amended. **Motion passed unanimously.***

B. Approval of the April 4, 2012 Special City Council Meeting Minutes

*Moved by Weir, seconded by Pederson, to approve the April 4, 2012 special City Council meeting minutes as presented. **Motion passed unanimously.***

C. Approval of the April 11, 2012 Special City Council Meeting Minutes

*Moved by Weir, seconded by Pederson, to approve the April 11, 2012 special City Council meeting minutes as presented. **Motion passed unanimously.***

VI. PRESENTATION

A. Steve Tallen, Medina Criminal Attorney

Steven Tallen, the Criminal Attorney for the City of Medina, stated that he was present to ask the Council for approval to move forward on a criminal appeal. He reported that a gentleman was arrested for drunken driving, and when pulled over a firearm was found in the center console of the vehicle, noting that the console was closed but not locked. He stated that the man is not disputing the charge of drunken driving and explained that it is a more serious crime to possess a firearm while intoxicated. He explained the interpretation of the law in regard to possessing a firearm while intoxicated. He stated that the judge ruled that because the firearm was in the console, it was not directly on the person. The judge also ruled that since the firearm was in the console, it was not out in the public. He advised that the judge dismissed the firearm charges because of that reasoning but noted that the drunken driving charges will move forward. He explained the appeal process, time deadlines, and attorney charges. He explained that if the City appeals the ruling, they could be liable for defense attorney charges. He noted the downside of not appealing the decision as well.

Crosby stated that at this time only the City and District court are aware of the decision and confirmed that if the City moves forward on an appeal and loses, the decision would be made more public. He stated that the purpose of the law is to rehabilitate, punish, and deter. He believed that in this situation the person most likely learned their lesson and will not try this action again.

Tallen stated that it is his belief that if this decision is not appealed, the defendant will believe that it is okay to drive with a gun in his vehicle. He confirmed that costs from the defense attorney could be between \$4,000 and \$7,500.

Crosby noted that there are a number of people in attendance tonight and believed it would be helpful to obtain resident input.

Tallen provided background information on a resident that was driving a Segway while intoxicated, he believed the man blew a .20 on his breathalyzer. He explained that the man was using the Segway to travel back and forth to the bar and was pulled over on Hamel Road. He noted that the man was ticketed and his Segway was taken because the blood alcohol level was so high. He noted that ultimately the judge ruled that the man was not in violation because the Segway was not a motorized vehicle. He explained that the judge used case history from a case involving someone using a motorized wheelchair while intoxicated. He stated that the judge was going to rule in favor of the City, but then changed his decision because of the similar case history. He stated that since that time the person has obtained two additional cases, in which he had relatively high blood alcohol levels while driving his Segway. He explained that there are two aspects to a drunken driving charge, the criminal aspect and the effect on the driver's license, and advised that the driver's license portion is still proceeding. He hoped that the cases for the new charges will have a better result because the City will be able to explain the differences between the wheelchair case and the Segway case.

Martinson stated that her concern is with the aspect of public safety and questioned the top speed of a Segway.

Belland provided additional information regarding each case, and noted that there is video footage. He stated that in one circumstance the man had fallen off the Segway

and was laying in the median. One chief concern is for police safety, with an intoxicated driver and gun in the cab of the vehicle.

Weir confirmed that direction would not be needed for the Segway case and pointed the direction back to the case with the gun. She questioned if this case would set precedence.

Tallen stated that it is persuasive but not precedence setting. He confirmed that the decision from the judge would not necessarily be public but believed that word of mouth could have an effect.

Weir stated that in her opinion the Segway case can wait, but the other case is more serious.

Pederson agreed with the comments made by Weir.

Crosby commented that the cost to pursue criminal cases is a cost to the City.

Martinson stated that on a cost per resident basis she believed that the cost to prosecute the individual is low, compared to the safety provided.

*Moved by Weir, seconded by Martinson, to approve Steve Tallen's request to appeal the decision on the case involving an intoxicated driver with a gun in the cab of their vehicle. **Motion passed unanimously.***

V. CONSENT AGENDA

- A. Approve Cleaning Services Agreement with Carlson Building Services, Inc.
- B. Approve Job Description, Recruitment and Hiring for a Public Works Intern
- C. Resolution No. 2012-26 of Support for Three Rivers Park District to Purchase the Property Located at 1542 County Road 29
- D. Resolution No. 2012-27 Authorizing Internal Loan in Connection with the Payment of Debt Service on General Obligation Bonds from Tax Increment Derived from Tax Increment Finance District No. 1-9

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

VI. PRESENTATION (Continued)

B. Fire Department Annual Reports

Brandon Guest, Hamel Fire Chief, stated that he would simply cover a few highlights of the past year, as the full Report was included in the Council packet. He stated that currently the department is staffed by 25 firefighters and summarized the calls, which the department received, and responded to, in 2011. He stated that there was one large loss fire call that occurred in 2011, in Wild Meadows. He reported that the budgeted amount for 2011 was \$203,000, while the actual costs at the end of the year came in at \$212,000. He explained that charitable gambling contributions were less than expected, and the replacement of turnout gear was unexpected. He also noted that there were about 2,000 hours of service, 1,600 hours of training, and 2,000 hours of administrative work. He stated that a significant portion of the administrative work was due to the shared services process. He advised that of the seven recommendations, which were

developed from that process, the departments have chosen to focus on three and reviewed those items.

Weir confirmed that the response time remained similar to the previous year.

Crosby believed that the Report was well written and provided historical information as well. He stated that the City very much appreciates the efforts of all the Fire Departments.

Brandon Silver, Long Lake Fire Department, stated that he would present the Report tonight as the Chief was out of state and the Assistant Chief had a family emergency. He reported that there are currently 47 members of the Department and summarized the changes to the staff members during 2011, including leaves of absences and probationary periods. He advised that a vehicle had been replaced during 2011 and reviewed the upcoming equipment replacements through 2014. He reviewed the number and type of response calls that the Department responded to during the past year, and explaining the differences between 2011 and past years. He reported that the department came in under budget by \$6,912, because of grant funds received.

Dave Eisinger, Maple Plain Fire Department, reported that his department has 27 members, 14 of which have 20 or more years of experience, and noted that the department is attempting to gain additional members. He reviewed the number and type of service calls received during 2011. He also discussed the equipment replacement that would need to occur in the future. He noted that his department also includes a group of Fire Explorers, which is composed of kids from the surrounding communities.

Crosby confirmed the boundaries of the Maple Plain Fire Department and again thanked everyone for their efforts.

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

Henry Jermaine, 790 Navajo Road West, stated that he recently purchased a lot in Medina and is building a home, and was present to discuss a wetland on his property. He explained that there are three wetlands on his property, although he is only present to discuss the wetland closest to Navajo Road. He discussed the existing wetland regulations and plantings used in the neighborhood.

Michael Fine, President of Tuckborough Farms, stated that there is not an objection to cattails in the neighborhood, but explained that the issue is more that this is the last lot to be developed. He explained that the violation was noticed because of the development occurring. He stated that the neighborhood Board would be fine with the existing conditions because that is the way the land has been for the past 20 years.

Finke confirmed that the construction has triggered the wetland buffers.

Crosby suggested that the property owner work with Finke going forward to clarify the situation.

B. Park Commission

Scherer noted that the Park Commission would be meeting the following night to discuss the boat launch, ball field dugout covers, and the Park and Trails Master Plan.

C. Planning Commission

Weir introduced the newest member of the Planning Commission, Randy Foote.

Planning Commissioner Reid noted that the Planning Commission met the previous week to discuss the Lennar PUD Concept Plan, which the Council will also discuss tonight. She stated that the Commission also discussed whether nursing homes should be allowed within the Commercial District, noting that the Commission agreed but believed that use should be allowed as a conditional use.

VIII. OLD BUSINESS

A. Lennar – PUD Concept Plan – The Enclave at Brockton

Crosby provided background information on Lennar and the property in discussion, as well as the neighboring property, which Lennar is also developing. He explained the PUD Concept Plan process and confirmed that the Council had previously reviewed the item, and noting that the Planning Commission has also reviewed the item twice.

Finke explained that because of the changes in Ordinance, the Council would simply be providing feedback at this point, similar to the Planning Commission, and would not be granting formal approval tonight. He noted that since the item has been discussed in length previously, he would not review the background information but confirmed that information was included in the packet.

Crosby explained the requirements of the MET Council in regard to density and the number of units connected to sewer services.

Finke advised that Lennar would like the City to consider a PUD, and explaining that this method would provide additional flexibility for the developer and the City. He stated that currently detached townhomes were proposed on the northern portions of the properties with single family residential on the remainder of the site. He explained that the blending of density would allow for the minimum density to be met, with single family homes incorporated throughout the site, rather than just on the southern portion. He identified the flexibility the developer is requesting, such as smaller lots on a portion of the property, which would allow the developer to meet their desires and also meet the density requirements. He reviewed the previous comments of the Council and Planning Commission, and the updates that the applicant has made to the Concept Plan in an attempt to incorporate those comments. He provided the aerial plans to better identify the evolution of the Plan, ending with the most recently submitted Concept Plan. He reviewed the most recent comments made by the Planning Commission at their April 10th meeting.

Joe Jablonski, representing Lennar, addressed the Council to discuss the elevation point. He stated that the property already sits at a higher elevation than the Holasek property. He stated that the grading plans had not yet been done, but noted that the home on the southwest corner would remain at the existing elevation. He discussed the level of the water table. He believed that they have made significant changes to the first Plan proposed in an attempt to incorporate the comments of the Council and Planning

Commission. He stated that his staff has also listed the different price points for the different product types and believed that there was quite a bit of variation in the different prices. He noted that pricing ranges from the upper and lower \$200's for townhomes, to the low \$400's, low \$500's, and mid to upper \$600's for the single family homes. He believed that this pricing would allow for full lifecycle aging. He agreed with the comments of the Planning Commission in regard to the intersections, which he believed would provide more creativity. He stated that using normal assumptions, they would place this as a three phase development and hoped to have full development occur by 2017. He noted that although the real estate market is picking up, nothing is certain on the full development timeline. He confirmed that Lennar currently has control over seven of the nine properties and provided clarification on that situation.

Batty stated since the PUD process has been amended and formal approval is not given at this time, staff has concluded that since seven of the nine property owners are on board and that is sufficient at this time. He outlined the next steps, which would include a request for rezoning, a general plan for the PUD, and a plat. He stated that because this is a unique situation, in which there is one developer and nine property owners, he would propose that a disclosure document be developed which would summarize the items upcoming so that everyone is aware of the next steps. He also suggested that in this context, something similar to the Jupert/Pemtom project be developed, which would include an overall plan for the entire property, even the properties which are not yet included in the plat, to help guide the future development.

Crosby stated that as this moves forward, the City will be more interested in the willingness of the landowners to go along. He reviewed the comments made by the Planning Commission including whether a well would be required and improvements to Brockton Lane. He questioned whether the comments of the Commission were incorporated into the conditions listed by staff.

Finke explained that most of the comments were incorporated into the conditions, and reviewed the comment that was not included. He reviewed the proposed lot sizes and provided lot sizes used in other developments for comparison purposes.

Weir stated that density requirements have increased on each revision of the Comprehensive Plan and believed that density requirements would continue to increase. She was unsure if the lot sizes on the western side should be decreased.

Reid stated that one thought of the Commission was to provide more variability, as previously many of the lots were proposed to be the same.

Crosby questioned how many types of homes could be built on the smaller lots.

Jablonski stated that there are 14 different house plans, each with about five elevations that could be built on the 75 foot lots. He stated that in theory you could also put some of the homes on the 65 foot lots, currently in the neighboring development, on the 75 foot lots as well.

Crosby stated that his concern is how the development will interact with adjacent land. He believed that the developer has a good plan for the land near the park and Brockton Lane, and noted that his concern is with how the development will interact with the future development to the south.

Weir noted that the development plans for the land to the south would most likely change in the future.

Finke believed that the number of unit demands from the MET Council in regard to the next Comprehensive Plan will be decreased, although he agreed that most likely the density demands would not decrease.

Crosby stated that if the Plan meets the requirements of the City and interacts with the adjacent land well, he believed that it would be difficult to tell the developer which type of product to use.

Weir commented on the tree plan and was a bit concerned that the southern portion of trees would not be preserved as a ponding site is proposed.

Finke stated that the applicant had discussed that at the Planning Commission meeting and is flexible in the Storm Water Plan.

Jablonski confirmed that Lennar is flexible in the pond location and shape in order to preserve additional trees along Brockton.

Weir questioned the intentions for the fairly large home association property to the north of the site.

Jablonski stated that Lennar is investigating the possibility of a shared amenity facility for both developments. He explained that the location was chosen in order to keep the facility truly shared and not too far into either development.

Weir addressed lot 59, a wetland proposed to be filled.

Finke stated that staff is investigating whether that is a pond or wetland. He stated that if it is a wetland, staff would like to see little or no impact.

Pederson stated that he likes the idea of blending the density but has concern with condition ten. He also wanted to ensure that the applicant was aware of possible upgrades to Brockton Lane that may be needed. He commented that Lennar has done great with the updates to the Plan.

Weir commented that the new Plan is a significant improvement over the first Plan submitted for comment. She agreed that the T-intersections comment to the neighborhood feel. She questioned if Scherer had concern over that proposed type of intersection.

Scherer commented that he has no concerns with maintenance.

Weir commented that the HOA lot is large and believed that it would be good to use that site as a shared amenity feature. She wanted to ensure that the lot would not remain open. She stated that two proposed homes affect the conservation area and questioned if the developer still has the same number of homes in the Hunter development or whether additional homes had been added.

Jablonski did not believe that the homes would encroach on the conservation area and noted that if a home would encroach on the area, it would not be built. He stated that ultimately Lennar will lose one home on the Hunter side.

Crosby commented that he believed the interaction between the development and park and Brockton Lane were good. He stated that in his view, the internal density is up to the market and developer, but hoped that there is diversity within the development. He questioned if Lennar would exercise architectural control.

Lennar stated that there are anti-monotony clauses, which prevent redundancy.

Crosby stated that he would like to see a ghost plan of how the development would interface with the property to the south. He questioned whether a road would run along the property or whether homes would back up to that property.

Reid commented that the Commission would also like to see additional guest parking spaces for the townhomes.

Martinson stated that she likes this updated Plan and noted that her concerns had already been addressed.

Finke stated that the Planning Commission had asked for the perception of density to be reduced and questioned the opinion of the Council.

Crosby stated that he was comfortable with how the development will interface with the adjacent properties and believed that interior of the development would be the decision of the developer, as long as safety and other regulations are met.

Weir stated that she did not have a problem with the proposed density.

Crosby commented that the proposed density is on the low range of the density requirements set by the MET Council.

IX. NEW BUSINESS

A. Storm Water Pollution Prevention Plan (SWPPP) – Annual Public Hearing

Scherer stated that as part of the SWPPP, an annual public hearing is required. He displayed before and after pictures of projects, which occurred in the last year including the Lakeshore/Brook Street project. He summarized the projects, equipment and training, which occurred during 2011 and also identified future projects. He reviewed the minimum control measures required and identified how the City meets those requirements. He identified Three Rivers Park District, BWSR, Hennepin County Environmental Services, and Minnehaha Creek/Pioneer-Lake Sarah/Elm Creek Watersheds as partners the City works with on these matters.

Weir questioned if an educational aspect should be added in regard to blowing leaf and yard clippings into the street.

Scherer confirmed that would only apply to urban areas of the City but noted that articles could be included in the City newsletter.

Crosby opened the public hearing at 9:28 p.m.

*Moved by Weir, seconded by Martinson, to close the public hearing at 9:28 p.m. **Motion passed unanimously.***

Weir thanked staff for their work on this matter.

B. Installation Services Agreement with D’Fence

Scherer noted that this request would include two fences, one that encloses the generator at Independence Lift Station One and would be composed of chain link fence. He stated that the second portion would be the dugout covering at Hamel Legion Field, which would be contingent upon the approval of the Park Commission the following night. He stated that he would prefer option one, listed in the packet, which would connect to the existing fence. He noted that the Athletic Association is also pleased with the proposed plans. He stated that the first fencing, enclosing the generator, would be funded by the sewer fund and requested that the second fencing, for the dugout, be funded by park dedication funds.

*Moved by Weir, seconded by Pederson, to approve the installation services agreement with D’Fence for both projects. **Motion passed unanimously.***

X. CITY ADMINISTRATOR REPORT

A. Amendment to Personnel Policy 5.70 Holidays

Johnson noted that the Council first discussed this item at the previous meeting. He stated that staff is proposing to turn Columbus Day into a floating holiday. He explained that City Hall would remain open on that day and staff could choose to take that day as a floating holiday, or to work and use that floating holiday on another day of their choice. He stated that as proposed, authorization would be given to the City Administrator to close City Hall on December 24th or 26th, depending on the year and when the Christmas holiday falls. He explained that if City Hall were to be closed, staff could then choose to use a vacation day, compensatory day, or floating holiday to cover those hours.

*Moved by Weir, seconded by Martinson, to approve an amendment to Personnel Policy 5.70 Holidays. **Motion passed unanimously.***

B. Water Tower Inspection Quotes

Scherer requested that the Council approve the agreement with Comber and Consultants to conduct the float down inspection.

*Moved by Martinson, seconded by Weir, to approve the agreement with Comber and Consultants to complete the float down inspection. **Motion passed unanimously.***

XI. MAYOR & CITY COUNCIL REPORTS

Weir stated that she and Johnson met with the Highway 55 Corridor Coalition and noted that it has been proposed that the Coalition dissolve. She stated that the recommendation that will be made this coming week will be to continue the Coalition for the next year or two, slowing to only meet a few times per year. She stated that there are government funds available and believed that there would be no chance to gain those funds if the Coalition is dissolved.

Martinson stated that Johnson arranged for her and Johnson to meet with the LMCC to discuss the internet service in the City of Medina. She believed that Medina could serve as a poster child for underserved areas. She invited anyone interested in the topic to send her an email, so that she may represent them at the meeting.

Crosby reminded residents that the Annual Clean-Up Day will take place on Saturday, April 28th from 8 AM to 12 noon. He reported that the Clam Corp purchase agreement has now been fully executed. He stated that an update had been provided from the Woodridge lawsuit and believed that the Council would discuss that item, via closed session, at the May 15th meeting.

XII. APPROVAL TO PAY THE BILLS

*Moved by Weir, seconded by Pederson, to approve the bills, EFT 001593E-001615E for \$46,698.81 and order check numbers 038168-038241 for \$128,796.96, and payroll EFT 504176-504204 for \$39,566.17 and payroll check numbers 020357-020358 for \$2,863.46. **Motion passed unanimously.***

XIII. ADJOURN

*Moved by Weir, seconded by Pederson, to adjourn the meeting at 9:40 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Scott Johnson, City Administrator