

## MEDINA CITY COUNCIL MEETING MINUTES OF MAY 3, 2016

The City Council of Medina, Minnesota met in regular session on May 3, 2016 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

### **I. ROLL CALL**

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

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Jim Strmel, City Planner Dusty Finke, 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.)**

Johnson requested to move an item under Old Business Item A, Mediacom Buildout, to follow Presentations.

*Moved by Anderson, seconded by Martin, to approve the agenda as amended. **Motion passed unanimously.***

### **IV. APPROVAL OF MINUTES (7:01 p.m.)**

#### **A. Approval of the April 19, 2016 Special City Council Meeting Minutes**

*Moved by Martin, seconded by Pederson, to approve the April 19, 2016 special City Council meeting minutes as presented. **Motion passed unanimously.***

#### **B. Approval of the April 19, 2016 Regular City Council Meeting Minutes**

It was noted on page two, line 48, it should state, "...residents present ~~were present at~~ attended the Planning Commission..." On page four, line 15, it should state, "He stated that he ~~would~~ might agree to some degree of a density..." On page four, line 22, it should state, "...~~lets~~ a great deal..." On page five, line 16, it should state, "Martin ~~confirmed~~ asked for and received confirmation..." On page six, line 26, it should state, "...but ~~would~~ might recant that opinion if there is public ~~outcry~~ opposition."

*Moved by Anderson, seconded by Cousineau, to approve the April 19, 2016 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA (7:03 p.m.)**

#### **A. Amend 21.00 Economic Development Fee Deferral Program**

#### **B. Approve Well No. 8 Final Pay Application**

#### **C. Approve Hamel Legion Park Concession Services Agreement with Church of St. Anne**

#### **D. Resolution No. 2016-30 Approving State of Minnesota Joint Powers Agreement with the City of Medina on Behalf of Its City Attorney and Police Department**

- E. **Approve Court Data Services Subscriber Amendment to CJDN Subscriber Agreement**
- F. **Approve Bid Results for the Medina City Hall Lower Level Renovation Project**
- G. **Resolution No. 2016-31 Accepting Bids and Awarding the Contract for the Arrowhead Drive Trail Extension Project**
- H. **Approve Arrowhead Drive Trail Wetland Replacement Plan**

*Moved by Anderson, seconded by Pederson, 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 met and discussed the scoreboard and graphics noting that the Hamel Lions were able to raise \$12,000 towards the purchase, which left the City's portion at around \$1,100. He stated that the City will also contribute some labor. He stated that the Commission also received an update on the Dellcroft plan but noted that because the applicant did not attend the discussion was more global. He advised that the Commission also received an update on the Comprehensive Plan process. He stated that the lighting request for the Fields of Medina Park was discussed and that item will move forward to the Council. He reported that the Annual Park Tour will be held on May 18<sup>th</sup> at 5:00 p.m.

### C. **Planning Commission**

Finke reported that the Planning Commission will meet the following week to hear a request from Just for Kix, which will include a variance request and lot combination to include the newly annexed piece of land from Plymouth.

## VII. PRESENTATIONS

### A. **Resolution No. 2016-32 Recognizing Dusty Finke for 10 Years of Service to the City of Medina (7:08 p.m.)**

Johnson reported that Finke is being honored for 10 years of service and commended him for his excellent work ethic, intelligence, and contributions to the City. He noted that Finke works well with residents and employees and often wears multiple hats for the City.

Mitchell stated that he has worked with Finke on the Planning Commission and Council and echoed the comments that Finke's knowledge is excellent.

Martin commented that the quality of the reports and recommendations from the Planning Department is unparalleled, which is vested in Finke. She commended Finke and the members of his department for their exceptional work that cannot be compared to any other municipality.

Mitchell presented Finke with a resolution recognizing him for 10 years of service to the City of Medina.

Finke commented that a planner's job is often described as herding cats and noted that he is lucky to have such great "cats" to work with. He stated that he enjoys working with the Planning Commission, City Council and staff.

*Moved by Martin, seconded by Anderson, to adopt the resolution recognizing Dusty Finke for 10 years of service to the City of Medina. **Motion passed unanimously.***

## **VIII. OLD BUSINESS**

### **A. 2016 Mediacom Buildout (7:12 p.m.)**

Johnson stated that staff has had further discussion with Mediacom following the direction of the Council at the March worksession. He noted that through these discussions it was determined that there could be a total of 18 miles, eight of which would be funded by Mediacom while the additional 10 miles would be shared. He stated that the City's portion of the shared miles would be \$12,000 per mile for a total of \$120,000. He advised that this could be funded through the cable franchise fees. He explained that although the balance of the franchise fee account is \$70,000, a resolution for reimbursement could be adopted which would allow the City to use available funds to pay for the construction and be reimbursed by the franchise fees.

Finke presented the original proposal from Mediacom that was discussed at the March worksession. He noted that there was discussion that the Mediacom funded miles did not include City streets but rather the connections to the homes, or what staff construed to be drops. He noted the Mediacom map also does not include the areas the City wanted to focus on, which would be those without service. He stated that Mediacom returned a similar map but staff provided a proposal, which would service an additional 20 homes by using another route. He noted that by and large the portion of mileage proposed by Mediacom is on private property rather than City streets.

Martin asked for additional information on specifically which portions from the road to the home would be at a homeowner's expense versus a Mediacom expense under the Franchise Agreement.

Finke replied that the definition of a drop was a distance of 500 feet or less from the main line to the house. He stated that under the agreement the first 500 feet from the roadway would be a Mediacom expense while any remaining distance would be split between Mediacom and the homeowner. He stated that on this plan Mediacom is planning to fully fund the distance as part of their mileage, which has become a fairly substantial amount of their mileage.

Mitchell stated that this Franchise Agreement with Mediacom has gone on for years and there have been continued discussions each winter with there never being a clear positive outcome. He stated that the decision at this point would be whether the City wants to push forward or get into a bigger discussion with attorneys on the language from the Franchise Agreement. He recognized the letters from residents that have been received asking the City to push forward for additional buildout.

Clarkson Lindley, 1588 Homestead Trail, referenced a detail on the map.

Mitchell stated that Mr. Lindley should speak with Finke after the meeting for additional details.

Anderson asked how the resident would connect to the system.

Finke stated that there should be no cost for any of residents on the blue line as Mediacom is including additional distance in their buildout mileage to make sure those residents are under the 500 feet distance.

Kirsten Chapman, 1910 Iroquois Drive, asked what would happen if your home is further than 500 feet from the line.

Finke replied that the cost would have been split between Mediacom and the resident.

Martin stated that it appears that as proposed Mediacom is running additional lines to ensure that homes are not more than 500 feet from connection and including that in their buildout mileage, so instead of that cost being shared by the resident and Mediacom the City is now covering a portion of that cost.

Finke stated that if the mileage would have been allocated along public streets rather than additional mileage through yards, then Mediacom would have had to fund the first 500 feet towards a property and if there was additional distance that would have been shared between Mediacom and the resident. He agreed that in essence the City is then funding a portion of that buildout and the City is gaining less mileage in this method compared to what would have been gained if the service would have been run down City streets.

Mitchell noted that is the heart of the disagreement between Mediacom and the City.

Kirsten Chapman, 1910 Iroquois Drive, stated that she already has Mediacom service but knows a lot of residents that do not. She stated that technology is not a luxury and is a fundamental utility in today's world. She stated that CenturyLink is offering a service in Minneapolis that is 75 times the speed some Medina residents have

Amy Alworth, 1602 Homestead Trail, echoed the comments of Ms. Chapman that the City needs high-speed internet.

Brad Maiorino 2950 Parkview Drive, stated that he strongly supports this matter. He noted that he has three children that get disconnected from the internet while attempting to do homework online. He stated that in the original proposal from Mediacom Parkview Drive was covered 100 percent but in this new proposal his home would be the only home on Parkview cut off from service. He asked that the line could be extended to cover his home as well.

Johnson stated that he will talk with Mediacom to attempt to provide access to 2950 Parkview Drive.

Martin stated that she agrees with the comments from the residents that everyone needs access to internet but noted that the City simply wants to ensure that the City gets the most out of the investment. She noted that Mediacom is taking advantage through its interpretation of the agreement. She explained that under the agreement, as drafted the City could have been completely built out but now the City will not come close to being built out under this agreement because of the interpretation of Mediacom.

Ms. Chapman stated that there are some pockets in which CenturyLink is offering some higher speeds of internet in the City. She noted that perhaps if the maps are adjusted to take out those areas to focus on areas that do not have access.

Johnson noted that CenturyLink did accept federal funds to provide service to some of those areas but noted that it could take up to seven years for that company to provide service at 10 Mbps.

Finke stated that unfortunately you cannot reach the areas that need service without building through areas that already have service. He stated that a lot of the mileage that Mediacom is claiming will help people is spent going through front yards of people that already have access to high speed access by another company. He noted that the laterals from the lines are counting against the overall mileage.

Martin asked if the laterals could be crossed out for those that already have service.

Finke explained that this is a cable television franchise and therefore the internet simply goes along.

Mitchell stated that the City can either choose to fight this out in court or can go along with the proposal from Mediacom. He noted that the City also does not want to lose a construction season.

Finke stated that disconnecting the shared miles from the Mediacom mileage is an advantage, as the shared miles are actual miles while the Mediacom miles equal to perhaps only half of one mile down the street. He provided additional details on the response that Mediacom is giving as to why they are running lines closer to homes rather than along the streets. He noted that continuing to argue with Mediacom will continue to delay the service installation.

Anderson asked and received confirmation that Mediacom has agreed to the alternative buildout suggested by staff.

Finke acknowledged that there are people that would have been served under the original map that will not be serviced under this map but noted that 20 more homes will be serviced in this plan over the total number that would have been serviced in the other plan.

Cousineau asked how many homes would be without service at the end of the buildout term.

Finke stated that would depend on where the shared miles are allocated next year. He stated that ultimately dozens of homes will not be served.

Martin commented that staff has done an excellent job negotiating but stated that the problem is with the party they are negotiating with.

Mitchell asked if staff feels that this decision is premature or whether this is the end result.

Johnson stated that he would recommend moving forward with this plan.

Martin asked that staff review the drops to ensure that no more than 500 feet were included as that could lead to additional buildout mileage.

Finke stated that Mediacom is also stating that some of this has been built out and he would want to verify that is correct, as if a homeowner did not want their yard torn up they would not have authorized the construction and therefore that distance should not be included in the mileage.

Anderson agreed and asked that Mediacom also be asked to extend service to the home at 2950 Parkview that was mentioned as well.

*Moved by Anderson, seconded by Martin, to approve construction of the cost-shared cable system identified in the potential alternative map dated 4-28-16, authorize payment of \$120,000, with the extension to 2950 Parkview Drive and with verification of drop length. **Motion passed unanimously.***

## **IX. NEW BUSINESS**

### **A. Wealshire Rezoning, Site Plan Review and Development Agreement – PID 03-118-23-24-0003 (7:46 p.m.)**

Johnson provided background information and additional details on the proposed phasing of the project.

Finke stated that various iterations of the plan have been seen over the past 18 months and highlighted the changes that have been made since the Council last reviewed the request. He noted that the underground parking has been removed and additional surface parking was added. He advised that additional landscaping was also added to the east side of the parking lot at the request of the Planning Commission. He provided a brief overview of the requests tonight for a rezoning and Site Plan review. He noted that the Planning Commission recommended unanimous approval of the rezoning and Site Plan review subject to the conditions noted in the staff report and draft resolution.

Pederson expressed concern that the landscaping would not screen the neighboring residential properties from the vehicles that will be parked in the eastern location.

Finke explained that physically there is not sufficient space for a berm. He noted that the shrubs would be about 18 inches to start and would grow to four feet.

Pederson asked if a fence could be constructed.

Mitchell stated that the question would then come as to whether the bushes would be better than the fence aesthetically.

Martin stated that there are eight trees in addition to the shrubs on the eastern border.

Mitchell stated that he would prefer the bushes and noted that a specification can be made to require 24-inch bushes to start.

Pederson referenced the fire road and asked for additional information.

Finke stated that the Planning Commission did not have any concern with a gravel road but noted that the applicant is stating that the cost for bituminous is lower and they will be making that change back to bituminous.

Pederson stated that if the road is gravel he wants to ensure that the road is built to the nine-ton specification. He noted that there are some neighbors to the north present tonight and asked how they will be impacted.

Finke stated that the most substantial landscaping will occur to the north. He noted that the grade to the north is higher than the building, so the landscaping will have a head start in that location.

Mitchell summarized the additional items recommended by the Council, including the size of the bushes for the east landscaping.

Finke stated that condition four would be adjusted, per the recommendation of Batty, in order to be consistent with the Development Agreement.

1. **Ordinance No. 597 Amending the Official Zoning Map to Rezone the Property at the Northwest Corner of Mohawk Drive and Chippewa Road**

*Moved by Martin, seconded by Cousineau, to approve Ordinance No. 597 Amending the Official Zoning Map to Rezone the Property at the Northwest Corner of Mohawk Drive and Chippewa Road. **Motion passed unanimously.***

2. **Resolution No. 2016-33 Authorizing Publication of the Ordinance by Title and Summary**

*Moved by Martin, seconded by Anderson, to approve Resolution No. 2016-33 Authorizing Publication of the Ordinance by Title and Summary. **Motion passed unanimously.***

3. **Resolution No. 2016-34 Approving Site Plan Review for Wealshire, LLC to Construct a Memory Care Facility Northwest of Mohawk Drive and Chippewa Road**

*Moved by Martin, seconded by Anderson, to approve Resolution No. 2016-34 approving Site Plan review for Wealshire, LLC to Construct a Memory Care Facility Northwest of Mohawk Drive and Chippewa Road subject to the conditions in the staff report with the modification of the second sentence of condition four as discussed, to add a condition 11 to specify that a fire road would be built to a nine ton standard, and adding a condition 12 that would specify that the shrubs planted would be a height of 24 inches with a mature height of four feet. **Motion passed unanimously.***

4. **Development Agreement by and Between the City of Medina and Wealshire, LLC**

*Moved by Anderson, seconded by Martin, to approve the Development Agreement by and Between the City of Medina and Wealshire, LLC. **Motion passed unanimously.***

Mitchell briefly recessed the meeting at 8:12 p.m.

Mitchell reconvened the meeting at 8:15 p.m.

**B. Comanche Trail Improvement Project (8:15 p.m.)**

Johnson noted that the next three projects are included in the road improvement plan and therefore can be considered together through one presentation.

Scherer stated that these are dead-end streets that will receive an overlay. He noted that the overlay can be assessed and that is why public hearings are required. He provided details on the proposed projects. He advised that a portion of Cottonwood will be reconstructed to provide year-round access to Leatherdale Farms. He briefly reviewed the cost estimates for each of the road improvements along with the potential assessments. He noted that the costs for the overlay on Cottonwood will be assessed between all the parties along that route of Cottonwood, including the Leatherdale Farm property, while the reconstruction costs would be assessed only to the Leatherdale Farms property.

**1. Resolution No. 2016-35 Receiving Feasibility Report and Calling for Public Hearings on Comanche Trail Improvement Project and Levying Special Assessments for Same**

*Moved by Cousineau, seconded by Anderson, to adopt Resolution No. 2016-35 Receiving Feasibility Report and Calling for Public Hearings on Comanche Trail Improvement and Levying Special Assessments for Same. **Motion passed unanimously.***

**C. Cottonwood Trail Improvement Project (8:23 p.m.)**

**1. Resolution No. 2016-36 Receiving Feasibility Report and Calling for Public Hearings on Cottonwood Trail Improvement Project and Levying Special Assessments for Same**

*Moved by Cousineau, seconded by Anderson, to adopt Resolution No. 2016-36 Receiving Feasibility Report and Calling for Public Hearings on Cottonwood Trail Improvement and Levying Special Assessments for Same. **Motion passed unanimously.***

**D. Lakeview Road Improvement Project (8:23 p.m.)**

**1. Resolution No. 2016-37 Receiving Feasibility Report and Calling for Public Hearings on Lakeview Road Improvement and Levying Special Assessments for Same**

*Moved by Cousineau, seconded by Anderson, to adopt Resolution No. 2016-37 Receiving Feasibility Report and Calling for Public Hearings on Lakeview Road Improvement and Levying Special Assessments for Same. **Motion passed unanimously.***

**E. Medina Clydesdale Marketplace, LLC – PUD Amendment for Larger Sign – 345 Clydesdale Trail (8:24 p.m.)**

Finke stated that this request would amend the Medina Clydesdale Marketplace PUD to replace an existing sign with a larger sign. He identified the current sign location, which is sitting atop the retaining wall, and place the larger sign closer to the roadway. He displayed the proposed sign, which is almost 30 feet in height. He noted that one other freestanding sign was permitted, which includes the Target and Office Max sign. He reviewed the existing PUD terms in regard to signage, noting that under the current

regulations there are only six opportunities for signage while there are 13 users in the development. He stated that the applicant is requesting to increase the total square footage for signage to 437 square feet, which is still under the total square footage allowed for the development of 640 square feet. He noted that this would shift the signage strictly along Highway 55. He stated that the Council should consider this on a broad scale for the entire PUD. He advised that the Planning Commission did recommend approval of the amendment to allow the sign with a vote of 6-1, noting that the one opposing vote did not support the total height but would support additional signage.

Mitchell asked if this proposed sign would block other signs when traveling from the west, such as the Medina Entertainment Center.

Finke did not believe so.

Eric Olson, Wellington Management, stated that this is a more unique property as there is a mix of national and local tenants. He noted that the local businesses desire additional visibility from the roadway to bring in customers.

Pederson referenced the existing sign to the east of Verizon and asked if that would remain or whether that would go.

Olson replied that the existing Target sign would remain and the sign atop the fence would be removed.

Cousineau asked and received confirmation that Target would have two signs.

Olson provided additional information on the details noting that there is a separate agreement with Target and Target would not approve this sign if they were not included on this as well.

Anderson stated that he would support the sign as this would bring in additional business and commented that the City is fortunate to have this business center.

Pederson agreed that the businesses would benefit from the additional visibility.

Cousineau stated that she struggles with the height of the sign. She asked if this would block the Goddard School.

Aaron Amic, owner of the Goddard School, stated that he is not opposed to the sign as it will bring in additional business.

Martin noted that on the business tours it was made clear that the businesses need additional signage and visibility. She noted that the Target symbol often triggers the thought that the center would have other good businesses as well.

*Moved by Anderson, seconded by Pederson, to direct staff to prepare an Ordinance granting approval of the PUD Amendment based upon the findings and subject to the conditions recommended by the Planning Commission. **Motion passed unanimously.***

## **X. CITY ADMINISTRATOR REPORT**

### **A. Park Tour (8:41 p.m.)**

Johnson reported that the Park Tour will be held on May 18<sup>th</sup> at 5:00 p.m. He noted that the Council would need to call for a meeting that night as there will be a quorum of Council members present.

*Moved by Martin, seconded by Anderson, to call for a special Council meeting on May 18, 2016 at 5:00 p.m. for the Annual Park Tour. **Motion passed unanimously.***

### **B. Open Meeting Information**

Batty provided a brief summary of information on open meeting law and a case, which took place in Victoria where the Councilmembers were charged for violations and the City was not named in the case. He provided clarification on open meetings, noting that all of the members of the Council could attend a Planning Commission meeting as long as they do not sit together or act like a Council. He noted that the Park Tour has now been noticed as a special Council meeting but noted that the Council should not speak on other matters not on the agenda.

### **C. Sioux Drive Turn Lane Project (8:55 p.m.)**

Stremel stated that a neighborhood open house took place this morning and three business owners attended.

Johnson stated that signage will be installed later this week, or early next week, to alert residents and businesses to the upcoming changes.

## **XI. MAYOR & CITY COUNCIL REPORTS (8:53 p.m.)**

Mitchell stated that he recently looked up the word Hamel and provided the definition. He referenced articles that he recently read regarding pensions and specifically PERA.

Johnson stated the City's Auditor will be present at the June 7<sup>th</sup> meeting to discuss the audit results and will address PERA as part of the presentation under GASB 68.

Mitchell stated that Lake Elmo was recently in the news for their sewer and water connections. He stated that Medina is lucky to have the infrastructure in place and fees in place that will ensure that new users pay for their connection as well.

Martin stated that she and Anderson have continued to work on the Steering Committee to update the Comprehensive Plan and stated that there has been great input from Finke and the engineers. She noted that the Committee will meet the following Monday at 6:00 p.m. to prepare for their open house meetings. She welcomed members of the Council to attend the open house meetings.

Mitchell stated that he will be out of town and will be unable to attend.

Anderson commended Scherer and his staff for their efforts at Clean-Up Day. He noted that the trees continue to be a large draw for the event.

Martin commented that it is a great event and a great opportunity for residents to speak with the Council and staff. She asked and confirmed that there are some compost bags available.

Mitchell stated that he talked with Belland about the affordable housing units, noting that as they become finished they are occupied. He stated that staff and Belland have made contact with them immediately to create a connection in a friendly way.

**XII. APPROVAL TO PAY THE BILLS (9:01 p.m.)**

*Moved by Anderson, seconded by Cousineau, to approve the bills, EFT 003629E-003645E for \$43,453.34, order check numbers 44248-44303 for \$148,659.36, and payroll EFT 507105-507131 for \$47,773.47. **Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Martin, seconded by Anderson, to adjourn the meeting at 9:02 p.m. **Motion passed unanimously.***

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Bob Mitchell, Mayor

Attest:

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Jodi M. Gallup, City Clerk