

## MEDINA CITY COUNCIL MEETING MINUTES OF JUNE 2, 2009

The City Council of Medina, Minnesota met in regular session on June 2, 2009 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

### **I. ROLL CALL**

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

**Members absent:**

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Associate Planner Dusty Finke, Public Works Superintendent Steve Scherer, Finance Director Jeanne Day, City Administrator Chad Adams and Recording Secretary Amanda Staple.

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

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

*The agenda was accepted as presented.*

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

#### **A. Approval of the May 19, 2009 Regular City Council Meeting Minutes**

It was noted on page five, section D, it should state: "alcohol consumption and display." Page five, lines 48 and 49, it should state, "...light colored background on the sign..."

*Moved by Weir, seconded by Johnson, to approve the May 19, 2009 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **V. CONSENT AGENDA**

#### **A. Resolution Approving Plans and Specifications and Ordering Sycamore Trail Mill and Overlay Project**

#### **B. Resolution Adopting Assessment Roll for Sycamore Trail Improvement Project**

#### **C. Resolution Vacating a Portion of Drainage and Utility Easement for Holy Name of Jesus Church**

#### **D. Resolution Adopting the Joint and Cooperative Agreement for Use of Law Enforcement Personnel and Equipment of July 1, 2009**

#### **E. Authorize Disposal of Seized/Recovered Property via Auction**

#### **F. Approve Liquor Licenses**

#### **G. Approve Trail Sealing Services Agreement with Fahrner Asphalt Sealers, LLC**

#### **H. Approve Tennis Court Rental Agreement with Carrie Agre**

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

### **VI. PRESENTATION**

**A. 2008 Annual Financial Report – Abdo, Eick and Meyers**

Steven McDonald, with Abdo, Eick and Meyers, explained the audit process. He explained that monitoring is important to the audit process and internal control. He thought that a positive found in the audit was improvements to internal controls. Mr. McDonald stated that next year the implementation of GASB 45 would occur and require separate calculations for post employment benefits. He commented that a good job had been done in keeping a reserve level on the general fund balance. He stated that 65 percent of the City's revenue comes from taxes and explained that the exposure to the State cuts was low for this city. He noted that 50 percent of expenditures of the general fund go towards Public Safety, which would cover both the Police and Fire departments.

Smith requested a footnote explaining that the building inspections were included in Public Safety so that the public did not think that entire amount was going towards the Police Department.

Mr. McDonald stated that he could separate those categories going forward. He briefly summarized the other governmental funds including special revenue, capital projects, and debt service. He reviewed the enterprise funds including the water fund, sewer fund, and storm water fund. Mr. McDonald then displayed the debt to assets and debt per capita ratios of the City and explained that the City measures under the average on both items, which is a favorable position.

Crosby questioned how Medina measured to comparable cities.

Mr. McDonald stated that the enterprise funds are well funded and the general fund was a bit light, but similar in many cities. He thought that Medina did a good job in looking forward three years in the planning.

Mr. McDonald noted no audit deficiencies in the City staff, as there had been in previous years.

*Moved by Johnson, seconded by Siitari, to approve the 2008 Annual Financial Report.  
**Motion passed unanimously.***

**VII. COMMENTS**

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

Rose Lorsung, representing the owners of the water tower site, spoke to the Council and City staff. She advised that the owners of the property had hired her to work on the amendments to the zoning regulations that would be needed because of the changes made to the comprehensive plan. Ms. Lorsung stated that a software engineering company currently employing 100 people showed interest in purchasing the entire parcel to develop their corporate headquarters, with potentially 400 employees. She verified that the company would be interested in the entire parcel, both sides of Willow. She stated that they are bringing this to the City ahead of schedule to help the purchase along. She advised that the user was interested in low impact building and was looking forward to a collaborative process with the City. Ms. Lorsung welcomed any comments or questions from the Council.

Crosby questioned the avenues available to the land owner.

Adams reported that City staff would respond to Ms. Lorsung within the next few days.

**B. Park Commission**

Scherer reported that a tour was completed visiting the City parks. He stated that a subcommittee meeting was held last week as well as a field house meeting. He stated that although the budget is tight they are reviewing different options to keep within those boundaries.

Smith agreed most of the architects that were interviewed thought it would be hard to stay within that budget but she thought that they would be able to stay close to that amount. She stated that Minnesota Waters will be giving a presentation on Forming a new Lake Association in August.

**C. Planning Commission**

Planning Commissioner Jim Simons reported that the Commission would be meeting again next week. He stated that the restaurant discussed at the prior meeting had requested some changes since the recommended approval.

Finke confirmed that the changes were initiated by the applicant and included an expansion and additional parking.

Commissioner Simons stated that the Commission would be discussing the maximum grazable area in regard to animals at the next meeting as well.

Smith requested to conduct New Business prior to Old Business. The Council agreed.

**IX. NEW BUSINESS**

**A. Pioneer Trail Road Improvements**

1. **Resolution Approving Plans and Specifications and Ordering Pioneer Trail Mill and Overlay Project – Public Hearing**
2. **Resolution Adopting Assessment Roll for Pioneer Trail Improvement Project – Public Hearing**

Adams stated that staff recommends holding both public hearings together rather than separate, and also recommends approval of both resolutions. He stated that this project had been discussed at previous meetings and briefly summarized the project and assessment method. He explained that this assessment would be 25 percent compared to the 50 percent rate that was used in the last three urban street projects. He stated that because this project is in a rural area, the Green Acres Rule may be available to defer assessments for some homeowners but would then accrue interest annually. He advised that this would be the last opportunity for residents to object to the assessment and would be the last public hearing in regard to mill and overlay this year.

Crosby stated that two landowners comprising 50 percent of the project area were objecting the project, SKH and David Crosby.

Mayor Crosby opened the public hearings at 7:20 p.m.

*Moved by Smith, seconded by Weir, to close the public hearings at 7:21 p.m. **Motion passed unanimously.***

Crosby stated that one property owner, his brother David Crosby was objecting at this point and that he would abstain from that issue. He explained that Mr. Crosby is not objecting the entire assessment, only that his entire parcel is being assessed. He explained that in Minneapolis a corner lot is only liable for assessment on one side of the lot, not both streets that border his property.

Smith questioned what normally would occur in this situation.

Day stated that normally the first portion assessed would be assessed completely and the second street assessed would be assessed at a rate of 50 percent.

Crosby was a little surprised that the City had not heard from either of the Laurents and questioned what type of notice they would have received.

Adams reported that a written notice would have been sent to the property owners and the hearing was also noticed in the City publications.

Johnson questioned why those assessments were significantly larger.

Day explained that the Council authorized a non-residential factor, which would give them a multiplier of five rather than one.

Crosby questioned what would occur if virtually every property owner objected to the assessment.

Batty stated that the only people who would be able to appeal are those that come forward by tonight.

Crosby questioned what the City would do if no property owner wanted the work done.

Smith thought that the City would be foolish to move forward if the property owners all objected to the project. She suggested possibly waiting for further development to spread the amount over additional property owners.

Crosby suggested tabling the public hearing for the time being to contact the Laurent property owners. He also questioned staff what could be done with the 75 percent of project funds that the City would be retaining if the work were not completed.

Mayor Crosby re-opened the public hearings.

Weir stated that the engineers recommend this project to repair the road and avoid reconstruction in the near future. She questioned when the properties would open up for further development.

Finke thought that the staging would occur in 2011 through 2015.

Weir questioned how long the road could wait for the development.

Kellogg stated that it would be a function of the weather and traffic. He stated that this road is an exception to the rule in terms of roadways, as it was never built to completion and was left at 85 percent complete. He was confident that an overlay would preserve

the roadway for another eight to ten years. He stated that a reconstruct was actually suggested but the Council chose to do an overlay instead. He stated that staff could observe the road on an annual basis by Public Works if the Council chooses to delay this action.

Weir questioned why a reconstruct was suggested initially.

Kellogg explained that the base was laid, but the wear course was not laid. He explained that normally the road would be built to what it is now and then the wear course would be laid the following year, with seal coating done every five to seven years.

Scherer commented that rutting had occurred and the problem would be removing the water from the ruts to prevent further damage. He suggested a leveling at a minimum and explained that if this were put off, further damage could occur.

Weir did not think the project should be delayed since a much higher cost could then be incurred by those property owners if a reconstruction was needed.

Johnson did not think that a majority of the landowners would be in favor of this project and thought it should be delayed until those property owners could be reached for comment. He questioned the assessment method as he did not think that the amounts assessed were equal. He explained that the one parcel that did not have access to Pioneer was assessed several times higher than a similar sized property that does have access to Pioneer.

Adams reported that the assessment method was determined by the Council and staff through a series of meetings last summer.

Smith recognized the concern with the status of the roadway but commented that there are worse roads in the City. She thought that Chippewa Road was in significantly worse condition.

Adams commented that roadway would most likely be on the list for the projects to be completed next year.

*Moved by Smith, seconded by Johnson, to reopen the public hearings. **Motion passed on a 3-2 (Weir and Siitari) vote.***

Johnson questioned if any of the parcels would fall under Green Acres.

Day reported that several of the parcels would fall into that category.

*Moved by Smith, seconded by Johnson, to continue the public hearings to the June 16, 2009 City Council meeting. **Motion passed on a 3-2 (Weir and Siitari) vote.***

## **VIII. OLD BUSINESS**

### **A. Ordinance Related to Institutional Land Uses, Creating the Rural Public/Semi Public Zoning District, and Removing the Urban Industrial Zoning District; Amending Sections 826.01, 826.21 and 826.64 ET. Seq.**

#### **1. Resolution to Publish the Ordinance by Title and Summary**

Adams advised that these items were originally discussed about one month ago but had been tabled at that time and staff had been directed to make suggested changes to the ordinance.

Finke stated that the Planning Commission and staff recommend approval of the ordinance. He explained that the ordinance would create a new zoning district. He reviewed background information regarding the ordinance and what had been discussed at the May 5<sup>th</sup> meeting. He summarized the changes made to the draft since the May 5<sup>th</sup> meeting. Finke reviewed the existing parking regulations for Council clarification. He explained how the parking regulations and the intensity of use would interact. He quickly reviewed the remaining aspects of the ordinance highlighting any changes made since the May 5<sup>th</sup> draft. He stated that if and when the ordinance is adopted, the Council could then review the proposed rezoning of specific properties and a moratorium.

Crosby opened the floor to residents that requested to speak and recognized that this is not a public hearing.

Allan Wondra, 2045 Tamarack Drive, indicated he was disappointed. He stated that he spoke at the May 5<sup>th</sup> meeting and thought that the City still has not dealt with the future and instead has dealt with only the existing. He questioned what would happen when the next religious institution approaches one of the applicable properties to build a large church and how the Council would oppose that.

Crosby explained that the applicant would need to come forward to the Council and request rezoning because churches would not be permitted in the rural residential zone.

Weir questioned if reasons would need to be given in regard to opposing a rezoning.

Batty explained that if someone met the regulations but chose to not rezone the parcel, findings should be given. He advised that the Council would have a much broader avenue to oppose in regard to rezone rather than extending conditional use permits.

Smith stated that one of the changes made was done to incorporate a current use rather than towards future planning. She commented that she would rather have one church nonconforming than opening up the area to future development for this type.

Mr. Wondra thought that the Council should have looked more towards the future in regard to these uses rather than conforming to current uses.

Martha Van de Ven, 1765 Medina Road, spoke to the issue of parking and intensity of use. She commented that churches can also bus in followers and knew of more than one church that currently used that method. She did not think that parking would be the best way to limit the intensity of use. Ms. Van de Ven did not want the intensity of use increased for institutions within the rural residential area. She was also concerned with the possible areas that could become a church with the new ordinance. She thought that churches and religious institutions should be welcomed only in the sewered area of the City.

Crosby stated that in an ideal world, churches ought not to be in rural residential. He explained that two institutions already existing in those areas and thought fairness should be used in regard to those. He suggested a total outside parking regulation

maximum of 300 stalls. He thought that the combination of a parking and sanctuary regulation would put standards on churches going forward.

Johnson was troubled by the fact that this seems to be triggered by the application of a permit coming forward from Woodridge Church. He questioned if risk was associated with what may be considered spot zoning.

Crosby stated that this issue had been on Council work sessions and work plans in the past and has been an ongoing issue for some time.

Adams confirmed that this had been discussed for the past few years.

Smith commented that the previous application from Woodridge Church for expansion came with the restriction that they would not be able to expand again.

Johnson questioned why that fact was not articulated at the beginning of the process. He explained that the organization followed the rules and spent funds on architectural plans in relation with the application process and thought that it should have been explained to Woodridge Church prior to those funds being spent and the process initiated further.

Smith did not think that anyone was being treated unfairly. She explained that discussions had been ongoing. She agreed that it would have been beneficial to the church being told upfront that the application would not be allowed but also thought that the church was aware that they could not expand again.

Johnson had an issue with the church being given hope and that if the thought was to not allow the expansion, the church should have been stopped at the beginning rather than letting them spend unnecessary funds.

Weir questioned if parks and conservation areas would be brought into this zone in the future.

Mayor Crosby recessed the meeting at 8:55 p.m. Mayor Crosby called the meeting back to order at 9:00 p.m.

Finke explained that cemetery uses had been discussed as future rezoning and stated that the comprehensive plan has language for a separate land use. He stated that conceivably those types of uses could be in this zone but a separate recreational land use would be created for those types of use.

Weir questioned if renting of space to outside providers should be addressed. She thought the renting out of space would increase the intensity of use.

Crosby questioned if a church could be rented out for non-church activities.

Batty explained that staff did discuss ancillary use of a church. He stated that staff decided not to limit that issue at this time but would in the future and certain uses would only be permitted in the commercial district.

Crosby explained that there are limitations with non-profits and the tax exempt status that would come into play.

Smith was concerned with the side yard setback and thought it would be better to have one institution nonconforming than to change the requirement.

Finke explained that the parking setback would remain at 100 feet.

Smith thought that the side yard setback should remain at 100 feet as well. She also thought that the impervious surface maximum should be lowered from 40 percent to 30 percent.

*It was the consensus of the Council to leave that requirement at 40 percent.*

Smith thought that a maximum square footage of 45,000 square feet was too large.

Siitari commented that when he ran for Council the issue he heard most was that residents wanted to keep the city rural. He agreed that 45,000 square feet may be too large.

Weir commented that the new City Hall would fall into this zoning category as well.

Adams advised that the plans for the new City Hall fell between 36,000 and 45,000 square feet.

Johnson questioned how large City Hall would get in phase two.

Adams reported that would be 50,000 to 70,000 square feet. He commented that would be many years forward.

Weir questioned if the Council would be willing to allow 40,000 square feet as a maximum.

*It was the consensus of the Council to allow a maximum footprint of 35,000 square feet and a maximum square footage of 40,000.*

Crosby suggested adding the language he proposed earlier in regard to maximum parking to this section.

Finke questioned the intention of the maximum parking regulation.

Crosby thought that regulating parking to a maximum of 300 spaces and limiting outside parking to permitted spaces only would be another method of regulating intensity of use.

Smith agreed with a maximum parking requirement as she thought that would clearly spell out the issue for future applicants.

Weir requested to add native prairie as an option in landscaping. She questioned if septic systems needed to be landscaped and whether that should be addressed in the landscaping portion of the ordinance.

Finke thought that the septic ordinance would be a better option for that item.

Weir questioned if irrigation should be removed from the ordinance and replaced with the language stating that the landscaping should be actively maintained.

*It was the consensus of the Council to remove the requirement for irrigation.*

Smith was concerned with the lighting used in parking lots and the use of timers. She thought that parking lot lights should only be on when someone is present or a meeting is occurring. She questioned if the lights had remained on since the last meeting.

A resident commented that the lights have not been used in the same method that they had been and no longer seemed to be set on a timer.

Smith thought that language should be added in regard to parking lot lights and the use of timers.

Finke explained that issue is already spelled out with ordinance language.

Smith suggested using more descriptive language in that measure.

Johnson commented that there is a liability for an unlit parking lot when an event is ongoing.

Crosby thought that language was already encompassed in the proposed ordinance language.

Crosby requested further clarification in terms of language on the issue of the rectory size and the relation to the maximum square footage.

Smith was concerned with the issue regarding an institution being allowed within 1500 feet of an arterial roadway. She thought that the ordinance should remain at 500 feet and that one church become nonconforming.

Finke explained that the current regulations allow those uses along any arterial or collector roadway. He stated that the proposed language would actually restrict the available sites.

Crosby did not think it fair to put that church into a nonconforming status. He thought that the language proposed already restricted the available uses further than the existing regulations. He questioned if language should be added to address the issue of rented space in regard to a religious institution.

Batty explained that staff had struggled with that issue and the definition of a church related activity.

Johnson noticed that lighting requirements were not mentioned in the cemetery portion of the ordinance.

Finke explained that the lighting standards would still apply to that type of property.

Weir questioned what would be contained in early childhood education.

Finke explained he researched that issue and early childhood education would encompass pre-K education.

Smith requested to add "playground" to recreational areas in regard to setbacks from neighboring property. She also thought that the statement should be added to the section on religious institutions regarding setback requirements.

Crosby summarized the issues discussed by the Council that still needed clarification.

*It was the consensus of the Council to leave the side yard setback at 75 feet, as stated; to set a maximum square footage of 40,000 square feet; and for staff to further research the capacity multiplier in regard to the maximum parking allotment of 300 spaces.*

Batty recognized that the Council was struggling with the parking, building square footage, and capacity multiplier and whether those are related. He thought that these issues were all independent as long as the issues are managed in a way that the parking is not exceeded.

*It was the consensus of the Council to table this item and staff was directed to revise the ordinance with the suggested corrections and bring the revised ordinance back to the City Council at the June 16, 2009 meeting.*

**B. Ordinance Rezoning Certain Property to Rural Public/Semi-Public**  
**1. Resolution to Publish the Ordinance by Title and Summary**

**X. CITY ADMINISTRATOR REPORT**

**A. Schedule 2010 Budget Planning Sessions**

Adams reported that a two to three hour City Council work session meeting would be held Thursday, July 23<sup>rd</sup> at 6:00 p.m. and an open house held on Thursday, August 27<sup>th</sup>, 2009 at 7:00 p.m. He advised that a policy discussion would be held on June 16<sup>th</sup>.

*Moved by Smith, seconded by Weir, to approve the schedule for the 2010 budget planning sessions. **Motion passed unanimously.***

**XI. MAYOR & CITY COUNCIL REPORTS**

Crosby stated that he would be willing to hold a summer social as he had done in the past.

**XII. APPROVAL TO PAY THE BILLS**

*Moved by Johnson, seconded by Weir, to approve the bills, EFT 000479-000490 for \$31,273.22 and order check numbers 03049-034092 for \$386,525.96, and payroll EFT 502068-502094 for \$42,681.28. **Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Smith, seconded by Weir, to adjourn the meeting at 10:35 p.m. **Motion passed unanimously.***

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T.M. Crosby, Jr., Mayor

Attest:

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Chad M. Adams, City Administrator-Clerk