

## MEDINA CITY COUNCIL MEETING MINUTES OF JUNE 4, 2013

The City Council of Medina, Minnesota met in regular session on June 4, 2013 at 7:00 p.m. in the City Hall Chambers. Mayor Weir presided.

### **I. ROLL CALL**

**Members present:** Weir, Pederson, Martin, Martinson, and Anderson.

**Members absent:** None.

**Also present:** City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, City Administrator Scott Johnson, Police Chief Ed Belland, and Recording Secretary Amanda Staple.

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

Weir asked for a moment of silence to recognize the passing of previous Mayor Thomas M. Crosby. She noted that a memorial service would be held on June 11<sup>th</sup> from 4-6 p.m. at the Guthrie Theater.

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

Weir requested to take the review of the bills as the next item.

*The agenda was accepted as amended.*

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

*Moved by Anderson, seconded by Pederson, to approve the bills, EFT 002116E-002137E for \$39,456.80 and order check numbers 039732-039799 for \$147,527.14 and payroll EFT 504966-504990 for \$42,701.26. **Motion passed unanimously.***

### **V. APPROVAL OF MINUTES**

#### **A. Approval of the May 21, 2013 Special City Council Meeting Minutes**

*Moved by Pederson, seconded by Martinson, to approve the May 21, 2013 special City Council meeting minutes as presented. **Motion passed unanimously.***

#### **B. Approval of the May 21, 2013 Regular City Council Meeting Minutes**

It was noted on page two, line 42, it should state, "...to hold a public hearing for a requested variance from the setback." On page four, line 48, it should state, "Anderson expressed concern about the city losing its easements." On page nine, line, it should state, "~~Weir~~ Anderson recessed the meeting..."

*Moved by Martin, seconded by Martinson, to approve the May 21, 2013 regular City Council meeting minutes as amended. **Motion passed unanimously.***

### **VI. CONSENT AGENDA**

#### **A. Amend 96.00 Purchasing Policy**

- B. Approve Liquor License Transfer from Local 55, LLC to Loretto's Pubhouse, LLC at 4445 State Highway 55, Medina, MN 55357
- C. Approve 2013-2014 Liquor License Renewals
- D. Approve Curb Replacement and/or Removal Agreement with North Country Concrete, Inc.
- E. Approve Milling Services Agreement with Midwest Asphalt Inc.
- F. Approve Milling Services Agreement with Omann Brothers Inc.
- G. Approve Easement Agreement at 1285 Willow Drive with Margery Jacobson
- H. Resolution Approving a Subdivision of Property for T. Truxtun Morrison at 1525 Hunter Drive

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

- H. Resolution No. 2013-46 Approving a Subdivision of Property for T. Truxtun Morrison at 1525 Hunter Drive

Martin stated that because the applicant is her neighbor and she has discussed the item with the applicant, she has recused herself from all Planning Commission and City Council reviews and will recuse herself from the vote tonight.

*Moved by Martinson, seconded by Anderson, to approve Resolution No. 2013-46 Approving a Subdivision of Property for T. Truxtun Morrison at 1525 Hunter Drive. Motion passed unanimously. (Martin abstained)*

## VII. COMMENTS

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

There were none.

- B. Park Commission

Park Commissioner Linck referenced the recent Park Tour which took place on May 15<sup>th</sup> and was attended by most of the City Councilmembers. She briefly reviewed the stops on the tour and the concerns highlighted along the way. She stated that the Commission is also planning to host a nature walk on Thursday, June 20<sup>th</sup>.

- C. Planning Commission

No report.

## VIII. PRESENTATION

- A. Resolution No. 2013-47 Recognizing David Hall for Ten Years of Service to the City of Medina

Weir read the resolution recognizing David Hall for ten years of service to the City of Medina. She presented the resolution to David Hall and thanked him for his service to the City.

Belland stated that he had the opportunity to hire David Hall in 2003 and he has been dependable, reliable and a great officer. He reported that David Hall became the first investigator for the department and has really set the bar for what that position is supposed to be. He stated that he completed the Masters program at Saint Thomas in

Law Enforcement Leadership along with David Hall. He noted what a great person and officer he is.

*Moved by Pederson, seconded by Anderson, to approve Resolution No. 2013-47 Recognizing David Hall for ten years of service to the City of Medina. **Motion passed unanimously.***

**B. Judy Mallett – Lake Minnetonka Communications Commission Update**

Weir noted that Judy Mallett actually had a meeting with the LMCC tonight prior to tonight's meeting and advised that this item would be taken up once Mallett arrives.

**IX. NEW BUSINESS**

**A. Fenske/Cole Variance Request at 2959 Lakeshore Avenue**

Sparks presented a variance request for the property located at 2959 Lakeshore Avenue. He explained that the applicant would like to convert the current deck with the underneath porch to a porch with a sunroom and home office above. He explained that the setback would then be 45 feet from the lake and noted that the requirement for that district is 75 feet. He displayed a picture of the existing backyard showing the porch and the deck.

Weir noted that she visited the property and noticed that currently the deck protrudes about two feet over the underneath porch.

Sparks confirmed that the proposed structure would actually come in closer to the house by half a foot and the above would no longer protrude out. He advised that currently the stairs protrude straight from the home and the proposed changes would have the stairs going to the side rather than straight back. He noted that the previous owner obtained a variance in 1999 and provided specific information on that variance. He referenced the current percentage of hardcover on this lot, noting that those were the ramifications of the previous owner. He provided additional information and displayed pictures of neighboring properties with similar dimensions and/or setbacks. He highlighted storm water features in the neighborhood as well as private features on the applicant's property. He noted the impervious surface percentage for the property is high and does cause concern because of the impaired waters. He stated that a reduction of impervious surface and installation of storm water management improvement could alleviate concerns to a degree. He advised that the Watershed would also like to review the improvements because they have interest in the matter as well. He noted that the Planning Commission recommended approval contingent upon four conditions listed in the Council packet.

Martin questioned the percentage of hardcover for the property if the deck by the lake and the plastic by the landscaping were removed.

Sparks noted that the deck by the lake was grandfathered in, although a permit was not issued for that structure. He stated that if that deck was omitted from the property the reduction in hardcover would only be less than three percent.

Weir stated that she did not think the owners would want to remove that deck because it is attractive. She questioned if the grilling deck would need to extend the whole length

of the house and believed that portion of the deck would not need to extend along the whole home.

Martinson stated that shortening the deck would not reduce the hardcover by much.

Weir stated that she would like to see no net increase to the hardcover because precedent could be set for other homeowners.

Dave Raskob, the builder for the applicant, provided additional information on the grilling deck, which would route water down onto the grass or landscaping below. He stated that if the deck were to be shortened the footing post would go right in front of the window. He stated that if all the rock and plastic were removed it would bring the hardcover down to 40 percent. He noted that although the addition above the deck could possibly be shrunk, you then get to the point where you ask if it's worth building. He noted that the room will be used as an office.

Anderson stated that Lake Independence has been an issue because of the impairment and noted that he also has respect for Chair Nolan of the Planning Commission. He believed that the runoff could be reduced lower than 40 percent.

Raskob stated that the applicant probably would not continue then and would just leave the existing percentage of hardcover which is 51 percent.

Martinson stated that she believed that Anderson was simply addressing the swale that could reduce runoff and not hardcover.

Anderson confirmed the comment made by Martinson.

Kellogg stated that there could be an opportunity to work with the catch basin to develop something.

Scherer advised that permeable pavers could be used for the driveway.

Finke provided additional information on the current concrete driveway.

Anderson noted the high percentage of hardcover in the driveway and believed that permeable pavers would be a good opportunity to reduce the hardcover.

Pederson agreed that the driveway would be a good opportunity to reduce hardcover.

Martin also agreed with the comments made and stated that she would also be in favor of investigating the swale to determine what could be done to assist in the treatment of the water.

Weir noted that the driveway could be an expensive item for the applicant and questioned if the issue should be tabled.

Finke stated that staff could review the item with the applicant and could prepare a resolution with the lesser hardcover amount. He believed that there would be adequate time within the 60 day review period to continue the item to the next Council meeting, or even the next meeting after that. He explained that the applicant did not formally

request a variance from the hardcover requirement but noted that was something that arose through the review of the property. He explained the language that could be used in the resolution that could approve the request but deny the hardcover variance.

Batty provided clarification on what direction is needed from the Council, whether the item will be brought back once or twice.

Raskob stated that the Council is asking a lot. He explained that a variance would not even be required if the structure were not going to be built above the sun porch.

Batty confirmed that the Council is not yet ready to direct staff to prepare a resolution and believed that staff should proceed as directed and it will be up to the applicant to propose some type of reduction to the hardcover which would be suitable to the Council. And at that meeting the Council can direct staff to prepare a resolution of approval.

Sandy Fenske, 2959 Lakeshore Avenue, apologized for her tardiness as her child graduated from kindergarten. She stated that she does not know how she could reduce the hardcover further than already proposed.

Weir stated that she would like to see an improvement to the catch basin, whether that is a rain garden, or something that could improve the drainage into the lake.

Fenske stated that her lot has an easement and she has neighbors walking down every side of her yard to get to their docks and would not want to see someone fall into something.

Weir provided additional information on rain gardens. She agreed that the removal of the impervious landscaping would be an improvement but believed that further improvement could be made.

Martin noted that there are different regulations being used to gauge this request than when the homes in the area were built but explained that when a request is made a review of the property is triggered. She explained that with the priority on improving water quality and treatment, the same review would be done on any property in that area. She stated that the City Council was not trying to make a difficult situation more difficult, but wanted to see further improvement of stormwater management on the site to be mindful of acknowledging that the Council may be setting a precedent for improvements to other homes in that area.

Fenske confirmed that the permeable pavers for the driveway would reduce the hardcover and recognized that while expensive they would possibly be willing to make that change.

*Moved by Anderson, seconded by Pederson, to table the resolution approving the request for a setback variance from Lake Independence for the property located at 2925 Lakshore Avenue. **Motion passed unanimously.***

## **VIII. PRESENTATIONS (Continued)**

### **B. Judy Mallett – Lake Minnetonka Communications Commission Update (Continued)**

Mallett provided an update noting that Mediacom has approved the agreement with the City contingent upon the Ordinance passed by the City. She noted that the LMCC has also accepted the withdrawal of Medina from the organization effective December 31, 2013. She stated that she, Finke, and Johnson met with representatives from Mediacom to determine where the first 15 miles of cable will be laid this year. She noted that staff would bring that plan before the Council prior to work beginning. She noted that additional information would be coming forward in the next few weeks regarding the future method of recording and playback of City meetings, once the City leaves the LMCC. She provided an update on the negotiations process between Mediacom and the LMCC. She noted that the subscriber rate for the LMCC has declined from 12,000 to 9,000 in the past three years and many of the member cities have expressed interest in returning fees to cities rather than turning over all of the funds to the LMCC.

Scherer questioned if the cable wire in Medina Morningside would be buried as he believed the other utilities have been buried in that area.

Mallett stated that she would bring that issue forward.

Weir thanked Mallett for all her efforts on behalf of the City.

## **X. OLD BUSINESS**

### **A. Resolution No. 2013-49 Authorizing the Waiver of Certain Development Fees for an Affordable Housing Project by Dominionium**

Johnson stated that the Resolution was prepared as directed by the Council at the previous meeting.

Nick Peterson, Dominionium, stated that he was present to answer any questions but believed that everything was specified at the last meeting. He confirmed that he was satisfied with the Resolution as proposed.

Weir questioned the likelihood of obtaining grant funds.

Peterson stated that Dominionium is unsure of the actual odds but believes that there is a good chance or they would not be this far along in the process. He also noted efforts by the County that would assist in the grant process.

*Moved by Martinson, seconded by Anderson, to approve Resolution No. 2013-49 authorizing the waiver of certain development fees for an affordable housing project by Dominionium. **Motion passed unanimously.***

## **IX. NEW BUSINESS (Continued)**

### **B. Ordinance No. 552 Regarding Driveway Requirements, Lot Frontage and Flag Lots, Minimum Street Grades and the Use of Public Right-of-way and Easements; Amending Chapters 4 and 8 of the City Code**

Finke stated that the proposed Ordinance recommended for approval from the Planning Commission deals with various subjects that have been identified in the City Work Plan over the years. He stated that a number of changes are proposed to driveways including setbacks and clarification regarding shared driveways to alleviate

inconsistencies. He briefly reviewed other proposed changes including the addition of language to clarify that suburban type new development would be required to construct non-gravel driveways.

Martin questioned if gravel would be more permeable.

Kellogg explained that although permeable, the tracking of sediment and issues that arise from gravel being allowed within suburban developments would exceed any water quality benefits from the permeability.

Martinson questioned if permeable pavers should be mentioned as a preference.

Kellogg addressed concerns that arise from permeable pavers, including long-term maintenance. He noted that in some situations a homeowner may be willing to install permeable pavers in their driveway in exchange for another improvement, such as an addition on the home, but noted that the next homeowner may decide to go back to blacktop and the City could not stop that because a permit is not required for that action.

Finke moved onto frontage requirements which are subdivided as well as flat lots. He advised that the proposed language would clarify any inconsistencies currently within the ordinance and definitions used.

Weir questioned if current flag lots would become nonconforming with this language and whether that is the desire.

Batty believed that this would make those lots nonconforming. He noted that this issue arises whenever anything is changed and provided past examples, noting that in the past a date has been set which reflects the changes to the future in order to safeguard those who followed the resolutions at the time.

The Council agreed that a date should be specified for these changes to come into effect as to prevent those properties from becoming nonconforming.

Finke referenced changes to the minimum street grade and noted that this language would simply make the Ordinance similar to the current engineering standards. He noted that the last section deals with improvements within rights-of-way and easements and the language would prohibit any structural above ground improvements within right-of-way and easements.

Weir stated that if a monument needs to be moved from the right-of-way for public improvements to be made, she believed that the cost for that should be assessed back to the property owners.

Finke explained that this Ordinance is not really the place for that language. He used the example of the City being allowed to remove something within the right-of-way if public improvement is needed without compensation.

Batty agreed with the comments made by Weir and believed that the Nuisance Ordinance would be the correct place for that language.

Weir commented that these changes to the Ordinance would be beneficial and thanked Finke for all his hard work.

Martin referenced the last portion of the Ordinance and questioned if a sign could be placed within the right-of-way if it were an elevated monument sign, such as a neighborhood sign, that would not interfere with the flow of storm water. She noted that it would be at the risk of the owner.

Batty stated that the City generally requires that those signs be installed in an outlot rather than the right-of-way.

Weir believed that would be addressed within the Sign Ordinance.

Finke noted that currently if a sign is on private property, setbacks are required. He referenced the Fields of Medina sign and noted that sign was approved through a license to be placed in the right-of-way. He noted that if the Council would like to encourage that action, the Ordinance language would need to be cleared up.

Weir stated that she did not feel strongly about the matter and was not in favor of a lot of extra signage. She stated that issue could be addressed if the matter comes forward in a request, and noted that she has not seen that type of request in her time on the Planning Commission or City Council.

*Moved by Anderson, seconded by Martinson, to approve Ordinance No. 552 regarding driveway requirements, lot frontage and flag lots, minimum street grades and the use of public right-of-way and easements; amending Chapters 4 and 8 of the City Code, as amended by the Council. **Motion passed unanimously.***

**1. Resolution No. 2013-48 Authorizing Publication of the Ordinance by Title and Summary**

*Moved by Anderson, seconded by Martinson, to approve Resolution No. 2013-48 Authorizing Publication of the Ordinance by Title and Summary. **Motion passed unanimously.***

**C. Ordinance Regarding Requirements for Streets Providing Access to Property to be Subdivided; Amending Chapter 8 of the City Code**

Finke stated that this Ordinance is for informational purposes. He noted that the Planning Commission did review this item but did not recommend any changes. He provided background information noting that the Planning Commission reviewed a subdivision request and during that review the Commission directed staff to look into the private road requirements. He stated that during the review by the Commission the Hamel Fire Chief adamantly spoke against Ordinance amendments and therefore the Commission did not recommend any changes as well.

Weir provided additional information on the ability to fight fires within the rural residential and noted that she is very supportive of the 20 foot width requirement for public safety. She also believed that existing roadways should be expanded to a width of 20 feet to improve public safety.

Martinson stated that she believed that residents should be allowed to measure those risks. She recognized the importance of those requirements for suburban development



because the risk can be passed to the neighboring properties so easily. She stated that in rural areas she would be willing to allow the homeowner to make their own decision on that risk and the ability of the fire department to access their property easily.

Weir stated that she would follow the recommendations of the Planning Commission.

Pederson agreed with the comments made by Weir.

Martin stated that she agrees with Martinson in many regards because a road that previously agreed with City Code would need to be expanded but noted that she also sees the point in expanding the roadways for fire purposes. She stated that perhaps when an opportunity arises, that would be the point to expand the roadway. She stated that ultimately she would side with the comments made by Weir.

Anderson stated that he believes that it is important to keep safe those that fight fires and believes it important to expand the width of the roadway to 20 feet to provide additional safety.

Weir confirmed the desire of the Council to take no action on the item.

**D. Police and Public Works Facility Sign at 600 Clydesdale Trail**

Weir stated that she had the idea of naming the building the Crosby building and asked Johnson to discuss that with staff.

Johnson stated that if the building were named the Crosby facility that could be confusing for residents. He noted that this would not preclude the City from placing a plaque inside the facility that would identify it as the Crosby building. He noted that the proposed sign design was included in the Council packet.

Scherer noted that he began the sign work prior to the suggestion from Weir.

Weir and the City Council agreed that a plaque should be placed in the lobby in honor of Thomas M. Crosby, Jr.

**B. Easement Acquisition**

Johnson recognized the excellent work by Finke to obtain the easement needed by the City for sewer and water services. He confirmed that this action would allow the City to eliminate the need for a future lift station in this area.

Anderson noted that although there is an upfront cost there would be a significant cost savings over time with the elimination of future maintenance and upkeep for a lift station.

*Moved by Anderson, seconded by Pederson, to approve the easement agreement to purchase an easement in the amount of \$31,714 from David Donner & Debra Donner, 4632 County Road 116, Medina, MN 55340 **Motion passed unanimously.***

**XI. CITY ADMINISTRATOR REPORT**

**A. Crosby Memorial Service**

Johnson stated that the memorial service for Crosby would be held from 4-6 p.m. on June 11<sup>th</sup> and asked that the Council allow him to close City Hall at 2:30 p.m. to allow staff to attend the service.

*Moved by Anderson, seconded by Pederson, to close City Hall at 2:30 p.m. on June 11, 2013 to allow staff to attend the memorial service of Thomas Crosby. **Motion passed unanimously.***

**XII. MAYOR & CITY COUNCIL REPORTS**

Martinson stated that she met with Chief Leuer to discuss the measureable levels of service and noted that she would continue her work and would continue to provide updates to Johnson and the Council.

Weir noted that Johnson and Belland have also been working on that same item.

Martinson stated that she would not want to duplicate efforts and noted that she would leave the work to Johnson, Belland and Anderson.

Martin stated that she assisted in interviewing potential applicants for the Planning Commission. She noted that one candidate stood out in the area of land use planning, Bob Mitchell, and he was recommended for appointment to the vacant position.

*Moved by Martin, seconded by Martinson, to appoint Bob Mitchell to the vacant position on the Planning Commission. **Motion passed unanimously.***

**XIII. ADJOURN**

*Moved by Pederson, seconded by Anderson, to adjourn the meeting at 9:03 p.m. **Motion passed unanimously.***

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Elizabeth Weir, Mayor

Attest:

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Scott Johnson, City Administrator