

MEDINA CITY COUNCIL MEETING MINUTES OF JUNE 16, 2015

The City Council of Medina, Minnesota met in regular session on June 16, 2015 at 7:07 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 Sarah Sonsalla, City Engineer Tom Kellogg, City Planner Dusty Finke, City Finance Director Erin Barnhart, Public Works Director Steve Scherer, Chief of Police Ed Belland, and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE (7:07 p.m.)

III. ADDITIONS TO THE AGENDA (7:08 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:08 p.m.)

A. Approval of the June 2, 2015 Regular City Council Meeting Minutes

It was noted on page two, line 19, it should state, "~~...discussing or commenting debating or voting...~~" On page two, line 27, it should state, "~~...he~~ it has not been determined..." On page three, line two, it should state, "~~...4.65~~ 2.46 percent..." On page five, line 31, it should state, "Anderson ~~questioned~~ asked if the plans..."

*Moved by Pederson, seconded by Anderson, to approve the June 2, 2015 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA (7:10 p.m.)

- A. Approve Temporary Liquor License to We Can Ride, Inc. on August 22, 2015 at 2825 Willow Drive**
- B. Approve Temporary Liquor License to MN350.org on July 31, 2015 at 1700 Deer Hill Road**
- C. Approve Seal Coating Services Agreement with Pearson Brothers, Inc.**
- D. Approve Trail Seal Coating Services Agreement with Gopher State Sealcoat, Inc.**
- E. Resolution No. 2015-51 Approving Variance and Site Plan Review for Aldi, Inc. to Construct a Grocery Store at 100 Westfalen Trail**
- F. Resolution No. 2015-52 Approving Conditional Use Permit for Wright-Hennepin Cooperative Electric Association to Install Ground Mounted Solar Equipment at 4315 Willow Drive**
- G. Resolution No. 2015-53 Reversing Independence Beach Assessment for Second Parcel at 3025 Lakeshore Avenue**

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

VI. COMMENTS (7:12 p.m.)

A. Comments from Citizens on Items not on the Agenda

Charlie Morse, 3224 Butternutt drive, stated that he submitted a request that will come before the Planning Commission in July to consider amending the upland buffer setback zones. He stated that currently there is a 15-foot setback for a home or deck while sheds and play equipment can be setback five feet. He stated that his request would allow decks and porches to also have a five-foot setback.

B. Park Commission

Scherer stated that the Park Commission will meet the following night to consider a request for a bullpen at Hamel Legion Park, discuss community gardens, hear a presentation and follow up regarding where milkweed could be planted to encourage Monarch butterflies, and will also conduct a follow up of the recent park tour.

Pederson questioned how the Fields of Medina Park is progressing.

Scherer reported that some work started this week, beginning with the retaining wall. He stated that he has stressed that the contractor should remain on schedule as he receives at least one or two resident calls per week.

C. Planning Commission

Albers provided an update on the Planning Commission, which occurred the previous week when the Commission reviewed a request from PJ Norman LLC to amend the Plan Unit Development for Clydesdale Market Place. He stated that the Commission recommended approval of the request, subject to certain conditions. He stated that the Commission also discussed the possibility of adding certain items to the list of projects that can be approved through administrative review. He noted that the Commission will be discussing the matter in further detail at their July meeting.

VII. PRESENTATIONS

A. CenterPoint Energy Community Partnership Grant (7:19 p.m.)

Belland stated that earlier this year the Police Department applied for a Community Partnership grant from CenterPoint Energy to purchase a defibrillator for City Hall. He stated that Officer Becker did an excellent job writing the grant application for the department. He stated that he was alerted this spring that the grant was approved.

Steve Marsh spoke in representation of CenterPoint Energy and explained the purpose of the community partnership grant program. He stated that the program runs annually and encouraged staff to reapply the following year for additional opportunities, noting a maximum amount of \$2,500 annually for each project. He presented a check in the amount of \$700 to Belland.

Anderson asked if there is a defibrillator at the Hamel Community Center.

Belland stated that site does not have a defibrillator and noted that the department is investigating additional grant opportunities that could be used for that purpose.

VIII. NEW BUSINESS

A. Mediacom Build-out Map (7:23 p.m.)

Johnson reported that staff needs additional time to work with Mediacom in order to complete the plans. He stated that currently the build-out map does not meet the franchise agreement language, as it would leave 22 homes unserved. He noted that the Council had discussed this earlier during the worksession.

*Moved by Pederson, seconded by Anderson, to not approve the construction plan from Mediacom as it does not appear to be in compliance with the franchise agreement and leaves 22 homes unserved; and to direct staff to work cooperatively with Mediacom to reach mutual agreement on the construction plans. **Motion passed unanimously.***

B. 2015 Street Improvement Project – Tower/Hamel/Kilkenny – Request for Change Order No. 1 (7:25 p.m.)

Kellogg stated that the City partnered with the Minnesota Pollution Control Agency, as there were known contaminants in the project area, to develop a Response Action Plan was developed in the event that unknown contaminants were also found. He stated that when the contractor began work, asbestos was identified and because the contractor was not qualified to remove that type of material, a qualified subcontractor was needed. He stated that the City received three bids for the removal and chose the lowest bid. He stated that staff originally estimated \$85,000 for contaminate removal but the cost will now be near \$220,000. He stated that any asbestos contaminated materials will be handled through the proper manner while the other contaminants will be removed in the manner identified in the original contract at a lower rate.

Anderson stated that the storm water fund is proposed to be used for funding and questioned if there is a fund balance that the City would not want to go below for that fund.

Barnhart stated that staff is aware of the revenue received for that fund each year and could deduct the operational costs to determine that figure. She stated that the City has deferred use of the storm water fund on certain projects in the past and therefore there are funds available to use for this project.

Anderson questioned if the environmental fund would be a better funding source as this is an environmental issue.

Barnhart stated that this is a storm water project and explained that the storm water fund has annual revenue while the environmental fund does not. She noted that once the environmental fund is depleted it does not have a source of replenishment.

Cousineau stated that perhaps the cost could be split between multiple funds.

Barnhart confirmed that multiple funds could be used.

Anderson asked if the contingency funds could be used.

Barnhart stated that unused contingency funds could repay the storm water fund.

Kellogg explained that there could be other unknowns that arise during the project and therefore the City would not want to use the entirety of the contingency funds on the first

leg of the project. He agreed that the unused project funds could be used to repay the fund that is used for payment.

Martin stated that if the contingency is not used in the project, that balance would be used to pay debt services rather than to payback a specific fund. She stated that she would like to use some of the contingency to fund the cost.

Scherer stated that the funding decision could be made at a later date.

Johnson agreed that the decision to approve the change order could be made tonight and the decision regarding the funding could be discussed in the future.

*Moved by Martin, seconded by Pederson, to approve the request for Change Order No. 1 for the Tower/Hamel/Kilkenny project. **Motion passed unanimously.***

Johnson stated that Martin brought up some questions regarding the easement agreement and possible recourse against the property owner.

Sonsalla stated that she reviewed the Phase I and II reports, which were addressed to Hennepin County in 2006/2007, and there was not a reliance letter issued to the City; therefore, the City does not have recourse against the consultants that completed those reports. She stated that the City may have some recourse against the property owner based upon the language in the easement agreement. She stated that more extensive legal analysis would need to be made before any claim could be made against the trust that is the property owner and noted that the City should track the clean-up costs in order to use that information if necessary to file a claim.

Mitchell asked why staff does not speak with Hennepin County to determine why the reports were not accurate.

Sonsalla replied that the involvement of Hennepin County is unknown in respect to the property and the reports and noted that the contaminates could have been on the property after the 2006/2007 dates of the report.

Martin stated that in order to file a claim against the consultants you would have to prove negligence, which could be quite difficult.

Kellogg stated that staff has contacted Hennepin County to inquire about grant opportunities.

C. Ordinance Amending Sections of Chapter 7 of the Code of Ordinances Regarding Public and Private Utilities (7:46 p.m.)

Scherer briefly highlighted the proposed amendments to sections of Chapter 7 of the Code of Ordinances regarding public and private utilities.

Anderson suggested two small grammatical changes.

Martin stated that she also had some suggestions that could be passed on to staff.

Mitchell suggested that staff incorporate the comments from the Council and then place the item on the Consent Agenda at the next meeting.

*Moved by Martin, seconded by Anderson, to table the Ordinance Amending Sections of Chapter 7 of the Code of Ordinances Regarding Public and Private Utilities to the July 7, 2015 meeting in order to incorporate Council comments. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT (7:55 p.m.)

Johnson reported that Mitchell Farley, 3465 Chippewa Road, contacted Mayor Mitchell regarding concerns with the whistle of the trains that go by his home and asked for direction on what he could do as a resident. Johnson stated that staff has drafted a response letter to the resident.

Mitchell stated that staff is attempting to assist the resident but noted that until the City can become a whistle free zone, the problem will continue. He stated that some residents are not bothered while others are.

Johnson stated that NEMO training will be held on July 23rd and asked Council Members to RSVP for the event to him. He reported that Fred Webber has contacted staff regarding concerns he has regarding senior citizens in Medina. He noted that written comments were reviewed and staff will continue to consider that aspect when reviewing the Comprehensive Plan.

X. MAYOR & CITY COUNCIL REPORTS (7:59 p.m.)

No comments made.

XI. APPROVAL TO PAY THE BILLS (7:59 p.m.)

*Moved by Anderson, seconded by Pederson, to approve the bills, EFT 003176E-003199E for \$46,378.45, order check numbers 42921-42987 for \$389,313.47, and payroll EFT 506440-506471 for \$47,669.02. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Martin, seconded by Anderson, to adjourn the meeting at 8:00 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Scott Johnson, City Administrator