

## MEDINA CITY COUNCIL MEETING MINUTES OF JULY 1, 2014

The City Council of Medina, Minnesota met in regular session on July 1, 2014 at 7:00 p.m. in the City Hall Chambers. Mayor Weir presided.

### **I. ROLL CALL**

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

**Members absent:** None.

**Also present:** City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Tom Kellogg, 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 (7:01 p.m.)**

Weir advised that William Jenson from Mediacom was present to provide an update and requested that item be added under the Comments portion of the agenda.

Johnson requested to add an item to the agenda titled Resolution Accepting the Resignation of the Accounting Technician.

*Moved by Anderson, seconded by Pederson, to approve the agenda as amended.*

***Motion passed unanimously.***

### **IV. APPROVAL OF MINUTES (7:02 p.m.)**

#### **A. Approval of the June 17, 2014 Special City Council Meeting Minutes**

It was noted on page one, section two, it should state, "The Councilmembers are ~~in favor of~~ accepting of the proposed increases; and wanted to ensure that the Chief understood that 15 percent is not a sustainable annual increase." In section three, the title should read, "2015 City Budget Discussion, staff proposed City budget....~~Part-time~~ part-time..."

*Moved by Pederson, seconded by Anderson, to approve the June 17, 2014 special City Council meeting minutes as amended. **Motion passed unanimously.***

#### **B. Approval of the June 17, 2014 Regular City Council Meeting Minutes**

It was noted on page one, lines 28 through 30 should be titled as "E". On page one, line 30, it should state, "...expressed at the Planning Commission meeting." On page one, lines 31 and 33, it should state, "...Wayzata School District..." On page three, line 30, it should state, "...the problem of runoff...impervious surface in the area...the Rascob property has remained unchanged." On page three, line 14, it should state, "...~~being dumped~~ draining..." On page three, line 42 it should state, "...Auto Body..." On page four, line 30, it should state, "...accessible and direct customers to detours." On page four, line 49, it should state, "established at the assessment hearing, of which the..." On page six, line 20, it should state, "...future park land." On page seven, line five, it should state, "...a protection easement..." On page nine, line one, it should state, "Martin stated that perhaps the Comprehensive Plan amendment process could begin early and that the City should consider a moratorium to evaluate a possible amendment to the

City's Comprehensive Plan in light of these decreased projections. She noted that a moratorium can be imposed if the City engages in a meaningful study of an item or to improve a process. She stated that this idea has been in the back of her mind for some time in light of increased traffic and development north of Highway 55, and the Planning Commission has echoed those comments time and time again." On page nine, line 26, it should state, "...~~them~~ Met Council..." On page nine, line 40 it should state, "...~~shift to~~ Wayzata absorb..." On page nine, line 46, it should state, "...to the west of Highway 116 in the Wayzata School District." On page ten, line 36, it should state, "...Wayzata School District..." On page 12, line six, it should state, "...Planning Commission Dominium public hearings. On page 12, line seven, it should state, "...development and the constraints imposed on the City to limit development."

*Moved by Martin, seconded by Anderson, to approve the June 17, 2014 regular City Council meeting minutes as amended. Motion passed unanimously.*

**V. CONSENT AGENDA (7:11 p.m.)**

- A. **Approve Raffle Permit to Twin West Chamber Foundation at 400 Evergreen Road on August 11, 2014**
- B. **Resolution No. 2014-39 Appointing Election Judges for the August 12, 2014 Primary Election and the November 4, 2014 General Election**
- C. **Resolution No. 2014-40 Appointing Absentee Ballot Board Election Judges for the August 12, 2014 Primary Election and the November 4, 2014 General Election**
- D. **Resolution No. 2014-41 Ordering Improvement and Authorizing Preparation of Plans and Specifications for Street and Utility Improvement Project on Tower Drive, Kilkenny Lane and Hamel Road**
- E. **Approve Joint Powers Agreement between the City of Plymouth and the City of Medina for the Edge Mill and Overlay of Brockton Lane from CSAH 24 and the Southerly Limits near 24<sup>th</sup> Avenue**
- F. **Approve Professional Services Proposal from WSB – Fields of Medina West Park Final Design and Construction**
- G. **Call for a Special City Council Meeting for the 2015 Budget Open House on September 2, 2014 at 6:00 p.m.**

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

**VI. COMMENTS (7:13 p.m.)**

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

There were none.

**B. Park Commission**

Park Commissioner Linck noted that the Commission reviewed two options for the Woodhill Preserve, and preferred the cul-de-sac option with additional woods preserved. She stated that the Commission also discussed the possibility of taking land, for the option of a future park, in regard to park dedication. She noted that the Commission also reviewed the CIP for 2015, which included possibly installing solar lights at Hamel Legion Park among other purchases. She advised that the Commission also discussed maintenance, including improving the parking area between the ballfields and

neighboring bar. She noted that the Commission decided to push out some items to 2016 and 2017.

**C. Planning Commission**

Finke noted that the Commission will meet the following week. He advised that a public hearing had been noticed for a rural subdivision off of County Road 24, but did not believe that item would move forward at this time. He advised that the Commission will review a Site Plan for a storage building.

**D. Presentation from William Jensen of Mediacom**

William Jensen, Mediacom, provided an update on the construction and discussed plans for the future. He reported that Mediacom is in full swing, with plans to complete the 6.4 miles planned for Medina this year in the next few weeks. He noted that there is concurrent construction going on in the neighboring city of Orono. He noted that although the rain has presented some flooding challenges, it has also created good conditions for digging. He noted that if there are problems with the grass restoration, residents should simply alert City staff and Mediacom will correct any problems. He advised that Mediacom has been working with Weir and City staff and the City's request for Mediacom to build an additional ten to 15 miles of cable this year. He noted that there are budget constraints, but advised that Mediacom may be able to include an additional ten miles in Medina this year. He advised of grant funds that were approved by the State legislature and noted that he will make a request in the next few weeks in an attempt to gain those funds to extend service in Medina. He displayed a map of Medina's 30 mile broadband access build out and highlighted areas, which have service, areas of construction, and areas planned for future connection. He also provided clarification on the difference between fiber and coaxial cable.

Judy Mallett provided additional clarification on DSL and fiber optic service.

Jensen provided additional information on broadband and cable television services. He also provided additional information on the build-out specified in the Franchise Agreement along with additional cost-share options for the City.

Weir confirmed that the funds Medina invests in the project will be replaced through Franchise fees.

Jensen provided a highlight of other services offered by Mediacom. He advised that if all aspects were completed this year there would be a total of almost 20 miles installed in Medina in one year.

Weir thanked Jensen for attending tonight.

**VII. NEW BUSINESS**

**A. Greg Smith – Variance – 4635 Pine Street – Public Hearing (7:43 p.m.)**

Finke presented a variance request in regard to a reduction of the rear yard setback and an increase in the amount of hardcover within the shoreline area. He advised that the home fronts on Pine Street and provided additional information on the site layout. He advised that the property owner is requesting to extend the existing garage. He displayed an aerial photograph of the property and identified the proposed garage extension, along with a sketch of the garage addition. He noted that staff wants to

ensure that drainage is addressed and therefore would not impact neighboring properties. He advised that staff mentioned possibly asking the applicant to remove some driveway in return for the additional hardcover, but reported that the Planning Commission did not support that condition. He reviewed the variance criteria and advised that the Planning Commission confirmed that those criteria had been met and therefore recommended unanimous approval of the request.

Martinson confirmed that the access to the garage addition would be through the existing garage.

Finke confirmed that there would be garage doors proposed for the west side that would be used to remove equipment, and would not be used for main access.

Weir opened the public hearing at 7:50 p.m.

Greg Smith, 4635 Pine Street, stated that he has thought about doing this project for 20 years and is finally in a position to do so. He explained that this addition would allow him to store his other equipment inside the two-car garage.

Anderson stated that Smith gathered signatures of support from adjacent property owners.

Martin noted that many of those property owners were also in attendance at the Planning Commission meeting to express their support.

Weir stated that she visited the property and discussed the option of adding a small rain garden on the property, noting that Smith was open to that suggestion. She referenced the wide double doors proposed to the west, which would be used to load and unload equipment and suggested that pervious pavers be used outside that area if needed.

Smith stated that he really does not need an apron in that location as he will simply be moving yard equipment. He did not oppose using pervious pavers if they are needed, but did not plan to construct an apron at that location.

Weir stated that she would like to add the condition regarding a small rain garden being installed and an additional condition that if an apron is required for the west entrance the material should be pervious.

Weir closed the public hearing at 7:56 p.m.

*Moved by Anderson, seconded by Pederson, to direct staff to prepare a resolution approving variances for Greg Smith based upon the findings in the staff report and subject to the conditions noted in the report and the two additional conditions mentioned tonight. **Motion passed unanimously.***

**B. Discuss Pioneer-Sarah Creek Watershed Management Commission Response Letter for the Third Generation Plan (7:57 p.m.)**

Johnson stated that at the dais are copies of letters from Board of Water and Soil Resources (BWSR) and Pioneer-Sarah Creek Watershed Chair Tom Cook. He explained that the first draft of the Third Generation Plan was submitted and BWSR was

not pleased with their submission. He advised that Mike McLaughlin, the Medina representative to that group was present tonight to provide an update.

Mike McLaughlin advised that the Watershed was required to develop a Third Generation Plan, which was submitted to BWSR. He summarized the issues that BWSR identified with the proposed Plan, including lack of funding, stability, and high ratio of administrative costs. It was noted that BWSR has not been satisfied with the results of the Watershed and BWSR asks that the group either step up or step down and let another group take over. He advised that the group met and is proposing to increase the budget by 1.3 percent. He noted that the Medina contribution is set at \$15,140, which he believed is wasted money towards a failing organization. He advised that Medina does have options for the future, including responding that the budget is inadequate, withdrawing from the Watershed, petition BWSR to create a different Water Management Organization (WMO) and request that portion of the City be allowed to join the Minnehaha Creek Watershed District, or to petition BWSR for a new Watershed District to be formed. He stated that the existing organization and their budget is not sufficient. He believed the City could gain more benefit for their funds if they created a new organization or petitioned for that portion of the City to join the Minnehaha Creek Watershed. He stated that perhaps the issue could be further discussed via a Worksession meeting.

Weir provided input regarding her participation with the Elm Creek Watershed organization. She believed the City was a responsible partner for clean water and expressed her frustration that the Medina contribution simply funds the administrative costs in the Pioneer Sarah Watershed Commission. She believed that perhaps that portion of the City should be shifted to Elm Creek Watershed, but that organization did not have interest in taking on that additional area. She stated that she did pose the question to Minnehaha Creek Watershed as well, but has not received a response. She asked that staff investigate the implications of a Watershed District, should that option move forward.

McLaughlin explained that the other Watershed would not have to be willing to take on that portion of the City if that is the decision that BWSR makes.

Weir believed that there is much information that needs to be gathered before a decision could be made.

Johnson confirmed that the issue could be discussed at a Worksession later this summer.

**C. Request to Change No Wake Ordinance on Lake Independence (8:15 p.m.)**

Mike McLaughlin, President of Lake Independence Citizen Association (LICA), confirmed that the Council received the letter regarding high water on Lake Independence. He reported that LICA requested a no wake Ordinance in 2003, with 250 feet as a threshold. He advised that the water patrol cannot enforce that and has recommended that the entire lake be made a no wake zone.

Johnson noted that the City would need to work with Independence and the DNR.

McLaughlin advised that LICA would be willing to fund any necessary cost to make this change. He explained that other lakes have enacted this no wake, which has caused

the additional traffic to come to Lake Independence. He confirmed that this would only be enacted during high water times and that there would be no restrictions during lower water levels.

Anderson questioned if there is signage in place to alert boaters.

McLaughlin confirmed that there is signage in place for boaters and advised that this has been an unusual year in regard to the high water level. He thanked the City for their participation in the cleanout of the lake outlet that occurred.

Weir stated that in 2007 there was a grant received to stabilize the shoreline for Lake Independence and noted that funds and staff time was spent on that project. She noted that the water level is above that level and commented on the damage that the wake is doing towards the stabilized area. She asked that the Council recommend the no wake Ordinance to apply to the whole lake in high water conditions.

Johnson noted that staff would need direction to move forward.

Martin asked that staff also forward the necessary information to the city of Independence and the DNR as well.

McLaughlin again stated that if there were legal fees involved, LICA would be willing to fund those fees.

Pat Wolf, 286 Lakeshore, stated that she conducts the gauge reading which has been one foot above the normal water line and is now two feet above the normal water level.

Batty stated that the State Statute does allow cities to draft water surface use ordinances when entirely within its jurisdiction. He noted that when the water is shared between multiple cities, both cities are required to adopt the same ordinance, which was done by Medina and Independence in the past. He stated that both cities would have to amend the ordinance and the DNR would then need to approve the amendment. He reviewed the timeline allowed for DNR review, but noted that the DNR may not take that long. He stated that in Minnetrista they received a letter from the DNR stating that they would preapprove a no wake zone because of the high water. He believed that the amendment would need to be done through ordinance.

Weir noted that she will contact Independence as well to see if they could move this item forward faster, as they will not meet until July 22<sup>nd</sup>.

Johnson confirmed that he had sufficient direction to move forward.

Martin stated that perhaps Three Rivers Park District would have the ability to close their parking lot to detour visitors.

McLaughlin stated that several property owners have expressed concern with floatplanes landing and taking off again on the lake. He was unsure who has the ability to regulate that activity.

Belland advised that Lake Independence is allowed as a landing strip between certain hours and advised that the activity is regulated by the State Board of Aviation.

**D. Discussion: Potential Comprehensive Plan Adjustments; Moratorium (8:32 p.m.)**

Finke stated that this discussion arose from the June 17<sup>th</sup> Council meeting where the Council discussed the vigorous development in the northeast corner of the City and the impact of that rapid growth on the City's infrastructure. He advised that the Metropolitan Council's (Met Council) reduced forecasting was also discussed along with the timing of the City's Comprehensive Plan update, which will be due at the end of 2018. He advised that the Council also discussed the option of instituting a moratorium. He summarized the development activity within Medina since 2010, comparing that to the forecasting of the Met Council. He also provided information on the current staging area that could develop along with Concept Plans that have come before the Council. He summarized the newly created Met Council forecast/projections and advised that the Met Council will release system statements in September 2015. He explained that at that point an update would be needed by the City to address the new projections. He advised that the Met Council will allow for amendments based on the new forecast but explained that the old system statements would still apply.

Weir referenced the areas of transportation and sewer and asked for additional information on those system statements.

Finke provided additional information found within the Thrive plan from the Met Council. He confirmed that the City is able to amend the Comprehensive Plan and also provided additional information on enacting a moratorium. He noted that the City can amend the Comprehensive Plan without a moratorium. He also discussed the process that is needed to amend the Comprehensive Plan and a study, which would be needed to enact a moratorium. He advised that similar work would need to be completed after September 2015 when the new system statements are available. He noted that the Comprehensive Plan could be updated without enacting a moratorium.

Weir cautioned the Council towards taking the step towards a moratorium as there could be unfortunate and costly consequences. She referenced the reduced population forecasts from the Met Council and believed that staff should review the staging areas and possibly eliminate the option to "jump ahead" to a sooner staging area. She stated that the City has been very permissive in mixed use zoning and noted that perhaps one plan for the entire zoning district should be required rather than allowing single family to move ahead in that district. She believed that these things could be done without moratorium and perhaps that option should be kept in the City's pocket in case something arises in the future.

Pederson stated that County Road 116 is a road outside the jurisdiction of the City.

Johnson provided an update on the recent meetings the City has had regarding that problem and believed that Hennepin County was on board with the request for an additional left turn lane from County Road 116 to east bound Highway 55, but noted that MnDOT was requesting additional information. He noted that Hennepin County has estimated \$30,000 to upgrade the signal to accommodate the left turn lane and believed that was an appropriate cost for this option.

Pederson stated that the Wayzata School District has planned for this growth and noted that he has also spoken with the Hamel Fire Chief, who is confident that the department could handle this growth with mutual aid.

Johnson noted that he also spoke with the Finance Director for the Wayzata School District who also confirmed that the District has planned for this future growth. A copy of an e-mail from Wayzata School Superintendent Anderson was also included with the City Council packet confirming the information from the Finance Director.

Weir believed that the City should focus on what the city actually has control over, such as the staging plan.

Pederson did not believe that Medina has sufficient staff or funding to jump ahead on the amendment to the Comprehensive Plan. He noted that many people spent a lot of time and the City spent a large amount of funds on that process as well and advised that the City is simply following that Plan and therefore did not believe a moratorium would be needed.

Martin agreed that the staging plan should be reviewed. She believed that a moratorium would need to be enacted prior to an application being received and could not simply be saved for later.

Batty clarified that a moratorium would not affect anything that has received a preliminary approval and explained that most moratoria are enacted because of an application received. He confirmed that items, such as reviewing the staging plan, could be done outside of a moratorium.

Weir asked for the input of the Council regarding their position on a moratorium and a possible study to amend the staging plan.

Anderson stated that he favored a study to amend the staging plan, he further added that a moratorium should remain as a planning option and therefore should remain on the table.

Finke provided additional information on the process that would be necessary and the timeline that would go along with those actions, estimating that an amendment could take one year, which would place the City in the position of needing to amend the Plan again following September 2015. He confirmed that some portions of the process could begin prior to September 2015, but noted that the system statements contain a lot of necessary information. He noted that the normal process is to wait for the system statements before beginning.

Weir confirmed that the Council would like staff to begin work on the process to amend the Comprehensive Plan and staging areas, without enacting a moratorium.

Bob Franklin, 4819 Lakeshore Avenue, agreed with the comments made by Martin in regard to balancing a rural atmosphere with development. He stated that the Met Council has used sewer as a powerful tool to regulate development and believed that transportation should be similarly considered.

Weir explained that the reduction in growth forecasting came about because of the arguments she made about not having sufficient transportation to support that growth.

Franklin stated that perhaps the planning should be based on what could be supported by the existing transportation system.

Weir confirmed that the City will not pursue a moratorium at this time.

Pederson and Martinson did not have interest in moving forward with the amendment of the Comprehensive Plan at this point.

Martin and Anderson had interest in moving forward on the study regarding the staging plan but did not consider that a moratorium would be off the table.

Weir advised of the public notifications and meetings that would be necessary to amend the staging plan but noted that she would also be in favor of moving forward on the study. She provided staff with direction to determine the amount of time and funding that would be necessary to move ahead on the study and possible amendment.

Pederson asked that the cost to upgrade the intersection at CR 116 be discussed in depth at a future Worksession.

Johnson confirmed that staff will bring additional information back to the next meeting on the staging plan.

**E. Resolution No. 2014-42 Accepting the Resignation of the Accounting Technician (9:28 p.m.)**

Johnson advised that the Accounting Technician Teri Portinen has accepted a finance position with the City of Osseo and her last day will be July 11<sup>th</sup>. He thanked Portinen for her years of service to Medina. He asked that the Council accept her resignation and also authorize the recruitment to fill her position as well as authorize him to hire or contract with a temporary position to fill those duties until the position can be filled.

Weir noted that the staff member was great with residents and she was sad to see her go, although wished her luck.

*Moved by Martinson, seconded by Pederson, to approve Resolution No. 2014-42 Accepting the Resignation of the Accounting Technician Teri Portinen. **Motion passed unanimously.***

*Moved by Martinson seconded by Anderson, to authorize the recruitment and updated job description for the Accounting Technician position. **Motion passed unanimously.***

*Moved by Martinson, seconded by Martin, to authorize the City Administrator to contract with a temporary consultant. **Motion passed unanimously.***

**VIII. CITY ADMINISTRATOR REPORT (9:32 p.m.)**

**A. Starkey Road Update**

Scherer provided background information on Starkey Road and the flooded condition. He advised that staff has been working with Three Rivers Park District and the city of

Orono to resolve the issue. He noted that he has also been working with the Watershed as there may be downstream issues they could assist with as well. He stated that he will continue to work on this matter and may come back before the Council in an attempt to partner to resolve this situation. He noted that the solution may be to bring the road back to gravel and elevate the base.

Martinson questioned how the few residents are able to get in and out of their homes.

Scherer advised that those without pickup trucks have been relying on family. He believed that a request to partner will come back before the Council in the near future.

Weir noted that the original intent was for the Park District to buy out those properties but they had run out of money for acquisition.

#### **IX. MAYOR & CITY COUNCIL REPORTS (9:37 p.m.)**

Pederson stated that he attended the Medina Ridge Condominium Association event along with Weir.

Martinson stated that she attended two meetings in St. Cloud recently including an awards ceremony for the League of Minnesota Cities for Medina's 2014 City of Excellence Award for the project at 600 Clydesdale Trail and the Minnesota Women in City Government award event where Mayor Weir was presented their 2014 Leadership Award.

Weir noted that the award from the League of Minnesota Cities included a prize of \$1,000 and proposed that the \$1,000 be used to provide a workout room, which could be used by staff in the Police and Public Works building. She also mentioned the storm water pond for the Tower Drive project and advised of possible grant opportunities.

Weir referenced the culverts that hold regional water under private driveways and specifically whom would be responsible for repair. She believed that a cost share policy should be enacted.

Scherer agreed that the City would have to be aware of this issue and work with homeowners to resolve the issues.

#### **X. APPROVAL TO PAY THE BILLS (9:44 p.m.)**

*Moved by Pederson, seconded by Anderson, to approve the bills, EFT 002668E-002681E for \$35,577.73, order check numbers 041407-041467 for \$665,268.06, and payroll EFT 505726-505751 for \$44,199.31. **Motion passed unanimously.***

#### **XI. CLOSED SESSION: EASEMENT ACQUISITION – PID 03-118-23-13-0002**

*Moved by Martin, seconded by Anderson, to move the meeting to closed session at 9:45 p.m. to discuss easement acquisition for PID 03-118-23-13-0002. **Motion passed unanimously.***

The meeting reconvened to open session at 10:24 p.m.

**XII. ADJOURN**

*Moved by Martin, seconded by Pederson, to adjourn the meeting at 10:25 p.m. **Motion passed unanimously.***

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Elizabeth Weir, Mayor

Attest:

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Scott Johnson, City Administrator