

MEDINA CITY COUNCIL MEETING MINUTES OF JULY 7, 2009

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

I. ROLL CALL

Members present: Johnson, Siitari, Smith, Weir.

Members absent: Crosby

Also present: City Attorney Ron Batty, Police Chief Ed Belland, Associate Planner Dusty Finke, City Administrator Chad Adams and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

The agenda was approved as presented.

IV. APPROVAL OF MINUTES

A. Approval of the May 19, 2009 Special City Council Meeting Minutes

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

B. Approval of the June 16, 2009 Special City Council Meeting Minutes

It was noted on page one, the third paragraph, it should state: "...all City contracts, including union contracts, for..."

*Moved by Siitari, seconded by Smith, to approve the June 16, 2009 special City Council meeting minutes as amended. **Motion passed unanimously.***

C. Approval of the June 16, 2009 Regular City Council Meeting Minutes

It was noted on page three, line 33, it should state "...merge merger..." On page four, line 12, it should state, "...all lakes, such as Holy Name and Elm Creek..." On page seven, line 32, it should state, "...is one in favor of growth." On page 12, line 14, it should state, "...the amount of treated water used..."

*Moved by Siitari, seconded by Smith, to approve the June 16, 2009 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

A. Resolution to Publish Ordinance 460 by Title and Summary

B. Ordinance Amending Section 805 of the Code of Ordinances Regarding Adoption of the Minnesota State Building Code

C. Resolution Authorizing Publication of Section 805 Amendment Ordinance by Title and Summary

- D. **Approve Water Tank Clarifier Services Agreement with Corpro Companies, Inc.**
- E. **Approve Change Order to Curb Replacement and Installation Project for North Country Concrete**

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

VI. PRESENTATION

A. Centerpoint Energy Grant

Jay Hibbard, area manager of Centerpoint Energy, presented a check for \$2,500 to the City for the purchase of new equipment to the Police Department.

Police Chief Belland explained the origination of the safe program and stated that a family could purchase a bracelet used for tracking purposes, such as a child or an adult with Alzheimer's disease. He thought the receiver would be a great tool for the community.

*Moved by Johnson, seconded by Weir, to accept the grant from Centerpoint for \$2,500. **Motion passed unanimously.***

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Park Commissioner Paul Jaeb provided an update from the last meeting. He stated that a lot of time has been spent recently on park signs and advised that a design to recommend to the Council would be voted on at the next meeting. Material for the signs was also being discussed and samples would be brought to the meeting. He advised that the Park Commissioners recommended approval of the draft RFP for a park consultant and a plan would be presented to the Council by October. He reported that Commissioner Kingsley resigned so there was now an opening on the Commission.

C. Planning Commission

Associate Planner Finke briefly reviewed the urban residential zoning regulations and Hamel Legion Park Field House that would be discussed at the next meeting.

IX. NEW BUSINESS

A. Wranglers Bar and Restaurant – Preliminary/Final Plat and Site Plan Review at 32 Hamel Road

Associate Planner Finke presented an application for a proposed addition to the rear of the existing building at 32 Hamel Road to operate a bar and restaurant. He advised that there were two requests, a plat to combine three lots and a site plan review for the addition, grading and parking. He stated that the Planning Commission and staff recommend approval of the request. He reviewed the preliminary and final plat information for the Council and explained the possible redevelopment of the property for residential in the future.

Johnson did not see the need for additional residential zoning in the future for that area. He did not believe that someone would want to build a high density residential complex next to the fire house.

Weir explained that would be per the density requirements set by the Met Council for the future.

Smith thought that this was a great opportunity and that it would contribute to a walkable community. She did not think that the residential statement should be included in the approval.

Johnson agreed and did not think that the residential component should be included.

Batty commented that the statement was purely for information and was meant to alert the property owner that may be a possibility. He stated that the requirement could be removed and the rezoning could wait until the rezoning of Uptown Hamel occurs.

It was the consensus of the Council to remove the second requirement from the plat approval.

Johnson thought that the City seemed to be discouraging outdoor dining and questioned why that would be.

Finke stated that the City was actually formalizing the idea of outdoor dining for the owner to bring forward without an additional site plan review. He advised that the limitations stated were the standards of the Uptown Hamel district.

Jim Willis, the applicant, explained that outdoor dining was not included at this time because the establishment was trying to “get on their feet” before taking on that additional expense. He advised that there is a proposed location but explained that it would be added in the future.

Weir thought that there would be a circulation problem with the flow of traffic.

Finke explained that a section of the parking lot would possibly require drivers to backup along the length of the lot. He stated that staff recommended additional landscaping and restriping of the parking lot to improve the flow of parking. He briefly summarized the site plan review and highlighted discussion items, such as the triggers for a site plan review. He displayed a site plan for the proposed plat highlighting certain areas and proposed use. He advised that hardi-board is proposed as a material but currently is not allowed in the zoning district. He explained that the Planning Commission recommended approval of the use of that material, as the existing building is composed of hardi-board. Finke stated that the next issue would be the proposed rooftop mechanical equipment and advised that the Planning Commission and staff recommend approval of that request for properly screened equipment on the rooftop. He stated that in regard to modulation and articulation there were some items that staff and the Planning Commission suggested, specifically three conditions; additional windows or spandrel glass, incorporating the brick from the front façade; and to alter the building setback for the addition. He then reviewed the parking circulation suggestions again, as well as lighting and Low Impact Development suggestions. The Planning Commission

and staff recommend approval of the plat and site plan with the conditions specified in the report.

Jim Willis and the Council clarified some aspects of the site plan including a knee wall around the building, increased windows on the addition, and the use of similar light fixtures to the street lights, landscaping, and improved circulation for parking.

Finke reviewed the changes suggested by the Council and the direction for staff.

*Moved by Weir, seconded by Johnson, to direct staff to prepare the resolutions for preliminary/final plat and site plan approval with revisions as noted. **Motion passed unanimously.***

B. Ordinance Amending Ordinance No. 455, an Interim Ordinance Regarding Religious Institutions and Facilities

1. Resolution to Publish Ordinance by Title and Summary

Finke briefly clarified the proposed changes to the ordinance and the relation to some of the approvals given during the consent portion of the agenda. He explained that the ordinance would remove the moratorium and allow staff to accept applications in those districts.

Johnson inquired if the rationale for establishing a 40,000 sq. ft. maximum for the new district regulations was discussed by the Council at the last meeting. Smith replied yes, at length, and commented their was consideration of decreasing to 35,000 sq. ft.

*Moved by Weir, seconded by Siitari, to approve an Ordinance amending Ordinance No. 455, an interim Ordinance regarding religious institutions and facilities. **Motion passed 3-1 (Johnson).***

Adams noted that four approvals would be needed in order to publish the ordinance by title and summary, which would save the City funds. He explained the difference between publishing the entire ordinance and publishing the ordinance by only title and summary.

*Moved by Weir, seconded by Siitari, to approve the resolution authorizing the ordinance to be published by title and summary. **Motion failed 3-1 (Johnson).***

C. Business Park Text Amendment Application

Finke briefly summarized the background information regarding the business park text amendment application that was discussed at the previous meeting and submitted by the applicant. He stated that during the work plan work session in January it was decided to review one ordinance at a time in regard to updates due to the Comprehensive Plan. He explained that the order was given to the ordinances to ensure that certain items were changed by the nine-month timetable set by the Met Council. He stated that if the Council does choose to reprioritize the ordinances and review this area at this time that the ordinance be reviewed in its entirety.

Smith questioned where the ordinance is on the work plan.

Finke stated that commercial ordinances had been reviewed, and urban residential ordinances are being reviewed now, with mixed-use to follow.

Smith questioned where the residential properties would fall in the timeline in regard to the golf course.

Finke reported that the City was one month behind because of the additional work on the religious institutions. He thought that the residential ordinances, which would apply to the golf course, would be presented to the Planning Commission and the Council in the next 30-60 days and would then depend on the amount of discussion needed.

Weir thought it made more sense to continue with the timeline as set.

Smith questioned if there was another way to do this, such as a PUD. She questioned what the cost would be to hire a consultant to assist on this portion of the ordinances.

Adams advised that although that had been done in the past, the City would probably not have the time and/or funds available to hire out that type of work to expedite all three of the ordinances (urban residential, mixed-use and business park). He was unsure of the cost because of the fact that it could take one Council meeting or it could take several depending on the amount of rewriting that may be necessary. He felt the most cost effective method for all parties involved in this business park application would be a concept plan.

Rose Lorsung stated that this was the third time discussing this item in front of the Council. She explained that the user is reviewing several different sites and the developer is not interested in following the PUD process, as that could possibly be unnecessary. She stated that this is a standard land use application with a text amendment to a specific zoning district. She stated that the applicant is not asking to submit a concept plan as they have hired her to complete the amendments for the City at their cost instead. She advised that she would continue to work with staff, the Planning Commission and the City Council to make the changes to the zoning district. She explained that although she is not aware if the construction would occur in the next year or next few years, the purchase would take place in the next year. She advised that the applicant is not asking to skirt the process, but just to know that the City is willing to work with them so that they can come in under the district requirements. She stated that although this is the lowest cost property that the developer is looking at, they are not willing to go through the PUD process. She advised that this would allow improvements to the zoning district with little or no cost to the City.

Weir questioned if the City would be alerted as to whom the user is.

Lorsung stated that the user does not want to give their identity at this point as they are still looking at a few other properties. She stated that if it were moved forward the identity would be revealed and a site plan would be submitted.

Johnson questioned if the proposed user was in any relation to the owners of the property.

Lorsung advised that there was no relation between the user and the owner of the property. She advised that the business is a high level software company that specializes in a certain type of product with high salary employees. She briefly summarized the proposed zoning amendments. She explained that the applicant would

like to follow the process but would just like to pay the hired planning consultant to make the amendments needed for the zoning district. She stated that if the City was not willing to make a text amendment to the ordinance they would also suggest making changes to the official controls, at the possible cost of the owner.

Weir stated that six weeks ago a church was interested in the property and questioned what the status of that request.

Lorsung advised that church is no longer interested in the property.

Batty commented that this would simply be a policy decision for the Council. He advised the Council to be careful about letting a developer pay for the costs to amend the ordinance, as if an application was pulled the developer would no longer be liable for reimbursement.

Weir was uncomfortable with a text amendment and thought that the whole zoning district should be rewritten.

Johnson thought that the text amendment was a roundabout way to get to the outcome of allowing a new business into the community.

Batty explained that the ordinance as it stands does not fit the interested user. He advised that the user would then come in during the second stage with the concept plan.

Adams explained the prioritization of the zoning ordinances and advised that the City could acknowledge that they are favorable to the potential business prospect, but could also present a schedule to the prospective business and request them to follow that.

Weir suggested moving the business park district ahead of the mixed use district to meet them half way.

Johnson advised that this business would have a large impact on the tax base of the City.

Adams advised of other businesses that were pursuing business interests and changes to the zoning ordinances, one of which would have an equal impact on the tax base. Adams inquired if staff should inform the prospective developers of the possible delay in the mixed-use zoning district if the business park regulations are advanced ahead.

Lorsung stated that there are a few businesses that have gone into foreclosure in the area discussed and would stay vacant. She advised that this is a land use application and reviewed the rules for that type of application. She asked that this application be moved forward as those other applications would be. She stated that if support was passed today through a motion or resolution the application could be dropped and there would be no cost to the City.

Smith saw a benefit to having a consultant work with the City that was paid for by the developer but also thought that the developer might then think that they would have the right to jump the staging. She questioned how the City would have protection if this was moved forward in regard to staging.

Johnson clarified that this was a method of moving to the front of the line.

Lorsung stated that the applicant is willing to pay for a consultant to make the necessary changes to the zoning district, whether they build or not, which would help other property owners in that same district.

Smith commented that she likes Lorsung's creative mind and saw this as an opportunity but did not want to make the developer think that they would jump the staging.

Lorsung acknowledged that if the applicant wanted to move forward on the staging they would need to meet the points system. She advised that this would still be voted on throughout the process.

Johnson thought that this process seemed to be gaming the system but thought that since this applicant was creative in bringing their application forward in this manner it should at least be moved forward as this could be a great opportunity to bring in a large corporate office. He thought that the Council should do what they can to bring this company into the economy.

Weir questioned if payments could be made incrementally to cover the City costs, should the developer walk away.

Adams stated that the applicant has submitted an agreement stating that they would cover all costs but explained the possible risk if the applicant withdraws the application. He advised that staff would still need to spend a fair amount of work to finish the ordinance with the work of the consultant, and that cost burden would be placed on the City if the applicant withdraws.

Smith recessed the meeting at 9:04 p.m.

Smith reconvened the meeting at 9:07 p.m.

Lorsung commented that she did not think that the City would complete all the required updates within the normal nine month timeline. She advised that the applicant is willing to be creative in agreements, such as working on the business park district in tandem with the mixed use district.

Smith thought the Council should begin to move more quickly and make decisions in a more efficient manner.

Batty commented that the timeframe was put together in the mindset that each grouping should take one Planning Commission meeting and one or two Council meetings, rather than two Planning Commission meetings and several Council meetings.

Weir supported completing the residential zoning ordinances and then moving forward the business park district before the mixed use district.

Adams questioned what the City would tell the other applicants that are awaiting the changes to be made to the mixed use district.

Johnson questioned why the other business owners could not move forward in the same manner that this applicant has, been submitting an application.

Smith suggested using the consultant for the business park district and staff working primarily on the mixed use district.

Adams commented that a more expedited timeline for the three ordinances could only be done with the help of the Council, as it has been hard to pass more than one ordinance through the Council at one or two meetings rather than four or five meetings.

Smith suggested holding an additional meeting per month if need be to complete things in a more timely manner.

*Moved by Johnson, seconded by Weir, to direct staff to simultaneously review the business park district and the mixed use district after the completion of the residential ordinance review. **Motion passed unanimously.***

Smith suggested that the Planning Commission and Council come to the meetings better prepared and with suggestions to expedite this process, along with extra meetings if need be.

Lorsung commented that the applicant is willing to pay for the consultant to do the work on the business park district while the City staff is working on the residential ordinance review. She stated that the applicant is willing to remove the application and work on the process completely funded by the applicant if the item were added to the August Planning Commission. She stated that the application has been submitted and requested that the item be added to the August Planning Commission meeting.

Adams advised that it would be almost impossible to add the item to the August meeting with the current workload and cautioned against the applicant withdrawing the application as an assurance they would pay for the staff or consultant work on the ordinance.

Smith questioned if staff could review the ability to add the item to the September Planning Commission meeting.

Adams did not think it was a matter of the Planning Commission being a barrier and thought that a better gauge would be the August 5, 2009 Council meeting and how the Council processes or continues the residential ordinance discussion. He thought that the burden would be the amount of work needed after the August 5th Council meeting on how many revisions or further research will be needed. A large amount of continued review would limit staff's ability to focus on the business park and/or mixed use ordinances.

Johnson thought that the City should find a way to get this done, as the process has been taking longer than it should in the past. While he did not like feeling that this applicant had jumped the line, he also did not think that this business should be left to walk away and that the meeting should be added to the September Planning Commission.

Weir agreed with Johnson as long as staff felt that it was feasible.

Siitari was concerned that this site is not the only prospect. He was unsure if the property was the first choice.

Lorsung stated that this piece of property is the first choice. She explained that the property has been taken in and out of the MUSA, has been taken out of staging, and has been rezoned more than once. She advised that because of all those changes the property is very fairly priced in the market.

Johnson questioned that if everything fell into line when the development would take place on the property.

Lorsung advised that fall of 2010 or spring of 2011 to build as the process with the City will take more than one year alone. She stated that it would be several years out before occupancy would occur. She stated that if the City were to agree to place this item on the September Planning Commission the applicant would be willing to provide the resources and remove the application if that were the favor of the Council.

Batty reviewed the previous process of the Council and stated that should the Council reach the 120-day mark, a decision would need to be made.

Smith acknowledged that the applicant is asking for the item to be added to the September Planning Commission and thought that an agreement would need to be made in terms of resources and financial obligations.

Adams advised that the City would also need additional resources, such as a consultant, that would be working for the City.

Johnson questioned the amount of work that would be needed for this ordinance.

Adams advised that although there is substantial work left for the ordinance a fair amount had already been done through the commercial district.

It was the consensus of the Council to add the business park district to the September Planning Commission and to make a commitment to expedite the review of the ordinances.

D. Ordinance Pertaining to Public Nuisances; Amending Section 330 Police Regulations

1. Resolution to Publish Ordinance by Title and Summary

Weir had a question in regard to section 330.09 and the limit on the number of dogs.

Batty felt that the kennel portion of the ordinance was misplaced but advised that the changes made at this point were focused on one portion and further concerns could be addressed in the future.

*Moved by Weir, seconded by Siitari, to approve an Ordinance pertaining to public nuisances; amending section 330 Police regulations. **Motion passed unanimously.***

*Moved by Weir, seconded by Siitari, to approve the resolution authorizing the ordinance to be published by title and summary. **Motion passed unanimously.***

E. Park Commission Appointment

*Moved by Weir, seconded by Johnson, to approve the appointment of Bill Waytas to the Medina Park Commission through January 1, 2010. **Motion passed unanimously.***

X. CITY ADMINISTRATOR REPORT

A. City Hall Garbage Enclosure

Adams reported that he would need direction as to whether or not to proceed with the low bid, the timing of when to move forward, and possible funding. He stated that funding source could be researched if the direction was to move forward.

Weir was surprised at the expense.

Smith stated that the City is out of compliance and should do the work just as any other resident of the City would be required.

It was the consensus of the Council to direct staff to move forward on the project and bring forward further funding specifics at the next meeting.

XI. MAYOR & CITY COUNCIL REPORTS

There were none.

XII. APPROVAL TO PAY THE BILLS

*Moved by Weir, seconded by Siitari, to approve the bills, EFT 000499-000513 for \$46,053.23 and order check numbers 034157-034226 for \$234,700.06 and payroll check 020205 for \$512.09 and EFT 502126-502152 for \$42,856.76. **Motion passed unanimously.***

XIII. CLOSED SESSION: ACQUISITION OF PROPERTY

Adams announced the City would be entering closed session to discuss the possible land acquisition of 2392 Pioneer Trail and PID 03-118-23-34-0001. Present in the closed session were City Administrator Chad Adams, City Attorney Ron Batty, and Council members Smith, Johnson, Siitari and Weir.

The meeting was recessed to closed session to discuss the acquisition of property at 10:05 p.m.

The Council returned to open session at 10:21 p.m. Adams announced he was provided with direction to continue discussions with the land owners on possible land acquisition.

XIII. ADJOURN

*Moved by Weir, seconded by Siitari, to adjourn the meeting at 10:23 p.m. **Motion passed unanimously.***

Carolyn A. Smith, Acting Mayor

Attest:

Chad M. Adams, City Administrator-Clerk