

MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 5, 2015

The City Council of Medina, Minnesota met in regular session on August 5, 2015 at 7:00 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 Ron Batty, City Engineer Tom Kellogg, City Planner Dusty Finke, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, and Public Safety Director Ed Belland.

II. PLEDGE OF ALLEGIANCE (7:00 p.m.)

III. ADDITIONS TO THE AGENDA (7:00 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:00 p.m.)

A. Approval of the July 21, 2015 Special City Council Meeting Minutes

*Moved by Anderson, seconded by Pederson, to approve the July 21, 2015 special City Council meeting minutes as presented. **Motion passed unanimously.***

B. Approval of the July 21, 2015 Regular City Council Meeting Minutes

It was noted on page two, line 20, it should state, "...a turf trail..." On page three, line 15, it should state, "...~~setup~~ set up..." On page three, line 27, it should state, "...~~but~~ and..." On page four, line one, it should state, "...data ~~on~~ to identify..." On page four, line 27, it should state, "...there ~~to~~ have..." On page four, line 39, it should state, "...senior housing building..." On page four, line 51, it should state, "...Medina infrastructure resources..." On page six, line 14, it should state, "Anderson ~~questioned if~~ suggested that..." On page five, line 46, it should state, "...held ~~their~~ its..." On page five, line 48, it should state, "...~~meetings~~ meeting..." On page six, line seven, it should state, "...~~or~~ and..." On page seven, line 24, it should state, "Anderson ~~questioned the number of~~ asked how many property owners there are." On page six, line 34, it should state, "...discuss ~~the capacity issue~~ Hollydale and Xcel's plan." On page seven, line 41, it should state, "...she believed that ~~this~~ the proposed assessment determination is fair and equitable." On page seven, line 27, it should state, "...two ~~property owners~~ residents and three lots..." On page eight, line 31, it should state, "Martin referenced ~~an item~~ a provision that states requires approval by City staff and suggested that instead be tied to..." On page nine, line 11, it should state, "...~~rational~~ rationale..." On page ten, line 17, it should state, "...~~schedules~~ scheduled..."

*Moved by Anderson, seconded by Pederson, to approve the July 21, 2015 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. **CONSENT AGENDA (7:05 p.m.)**

- A. **Resolution No. 2015-61 Authorizing Amendment to Residential Recycling Grant Agreement with Hennepin County**
- B. **Resolution No. 2015-62 Amending 2015 Appointments and Designations to Various City Services, Authorities, Commissions and Agencies**
- C. **Resolution No. 2015-63 Accepting Resignation of Police Officer John Vinck**
- D. **Authorize Staff to Recruit Police Officers Replacement Position**
- E. **Approve Job Description and Reclassification of City Clerk/Assistant to City Administrator to Pay Grade 5-6 as of January 1, 2016**
- F. **Approve 2016 Hamel Fire Budget**
- G. **Resolution No. 2015-64 Approving Proposed Transfers and Assignment of Fund Reserves**
- H. **Ordinance No. 584 Amending Section 625 of the Code of Ordinances Regarding Wine Licenses**
- I. **Approve Street Striping Services Agreement with Twin City Striping, Inc.**
- J. **Approve Display Contract Agreement with RES Specialty Pyrotechnics, Inc. for Medina Celebration Day**
- K. **Approve Change Order No. 1 for Fields of Medina Park Development**
- L. **Ordinance No. 585 Regarding Site Plan Review Processes; Amending Chapter 8 of the City Code**
- M. **Resolution No. 2015-65 Authorizing Publication of the Site Plan Review Ordinance No. 585 by Title and Summary**

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

VI. **COMMENTS (7:08 p.m.)**

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

There were none.

B. **Park Commission**

Park Commissioner Reid provided a summary of the July 15th meeting at which time the Commission reviewed the proposed trails related to the Stonegate request. She stated that the Commission liked the alignment of the northern trail as it aligns with the plans of the Commission.

Mitchell stated that the issue has come up before as to whether or not he would have a conflict of interest with the Stonegate development request. He identified his property location and stated that while he does not have a conflict, he does feel that he should recuse himself from the discussions regarding Stonegate and asked that Pederson take control of the meeting.

Mitchell recused himself from the discussion.

Reid stated that the Commission likes the location of the northern trail but does not feel that the northwest connection would be necessary as the property owner in that location does not plan to subdivide and therefore that trail area would be a wetland. She referenced the horse trail and stated that the Commission recommends that remain as a horse trail. She stated that the Stonegate representatives stated that the trail would be placed in permanent easement and therefore it would be the decision of the City as to

whether or not that would remain as a horse trail. She stated that the Stonegate representatives also assured the Commission that the adjacent homebuyers would be alerted as to the location of the horse trail. She stated that there are conflicting issues that could not be resolved regarding the trails, specifically whether the trail could cross the conservation easement and whether the trails should be composed of bituminous, gravel, or turf. She reviewed the recommendations of the Commission in regard to the Stonegate request.

C. Planning Commission

Finke reported that the Commission will meet the following week to consider a variance request to extend an existing deck in the Independence Beach neighborhood, a proposed lot split and variance request for the property located at 2782 Willow Drive, and a continuation of the discussion regarding the setbacks for decks from wetlands.

VII. NEW BUSINESS

A. Stonegate CD-PUD General Plan and Preliminary Plat (7:17 p.m.)

Sparks presented a request for a Conservation Design Planned Unit Development (CD-PUD) and Preliminary Plat from Stonegate. He stated that the development would contain 42 rural single-family parcels that would access off of a new road that would connect to Homestead Trail in Orono and would continue through the development to Deerhill Road. He stated that currently the property is zoned rural residential and guided rural residential in the Comprehensive Plan, which allows for one home per five acre minimum. He explained that the Conservation Design Ordinance would allow for flexibility, including a density bonus, contingent upon objectives of the Ordinance being met. He displayed the proposed layout for the development, which includes parcels ranging in size from 1.2 to 2.63 acres. He stated that the base density would allow for 22 lots on this property based on the number of lots that would be achieved under the existing zoning of the property. He noted that under the CD-PUD Ordinance a density bonus of up to 200 percent could be allowed, based on the conservation aspects provided under the development, and advised that the applicant is proposing a density bonus of 190 percent. He stated that the road through the development would become a City maintained road while the cul-de-sac and shared driveway portion would remain private. He stated that the applicant is requesting a reduced street surface and right-of-way as they believe that would help to achieve low impact developments and better blend with Deerhill Road. He stated that new subdivisions require 60-foot wide right-of-way with a 24-foot roadway surface. He stated that if Deerhill Road were to be rebuilt that would be completely different from the subdivision standards as that is a unique roadway. He stated that staff recommends that the road through the development be built to the subdivision standards, and noted that the applicant does believe that it would be possible to meet those requirements although they would not prefer that option. He stated that some of the proposed trails would go through the right-of-way and one trail would cross through the conservation area. He stated that the applicant is proposing primary and secondary septic locations within each lot with the exception of one lot that would have a secondary septic site to be placed in the conservation easement. He stated that the applicant is seeking an additional allowance that up to ten additional lots could have secondary septic placement in the conservation easement if desired. He stated that the applicant is proposing a multi-flow pretreatment septic system, which requires a higher degree of maintenance. He stated that staff recommends that the Homeowners Association (HOA) be involved in the maintenance of the septic systems. He stated that three of the proposed septic sites do not meet the City's requirements for

wetland setbacks and those should be relocated. He stated that there will also need to be monitoring of well and septic sites because of the proximity to the City's drinking water supply area. He stated that the City Engineer should review the tree placement prior to installation and the details of the individual plantings should be provided to ensure compliance. He stated that a wetland replacement plan would be needed and an updated wetland delineation would be needed. He stated that wetland buffer planting plans for the easements would also be required. He highlighted the conservation easement proposed for the development and the restoration plans. He stated that the Planning Commission reviewed this request and recommended denial as they did not feel that the request met the objectives of the CD-PUD Ordinance. He stated that the Park Commission reviewed the request and believed the trails proposed by the applicant largely satisfies some of the park dedication requirements with the remainder to be provided through cash in lieu.

Martin stated that the Park Commission report referenced a piece of land that they would like to receive that she does not see in this plan.

Jennifer Haskamp spoke in representation of the applicant and stated that Stonegate would be happy to make that change if desired.

Anderson asked the size of that property in discussion.

Haskamp reported that the property in the northeast corner is 1.73 acres in size.

Pederson stated that Deerhill Road has been discussed in the past, noting that a speed limit would need to be set. He believed that a speed study would need to be completed in order to set that limit.

Belland replied that is correct, a speed study would be done to set a speed limit.

Pederson stated that the residents of Deerhill Road have petitioned the City to not upgrade that road at this point in time. He noted that is a public road and wanted to make sure the residents know what that means.

Haskamp stated that she has been working with the applicant for the past three to four years and introduced the members of the applicant's team who are present tonight. She provided background information noting that there has been ongoing litigation for the past two years and advised that there is a contingent settlement agreement. She stated that this site is identified as having moderate to high quality resources that are worth protecting as specified through a map adopted by the City in 2007. She noted that in 2010 the property was converted to use for agriculture. She stated that the property was previously part of the conservation reserve project from 1997 through 2007. She stated that the property is identified as a priority area within the City's open space vision and principles. She provided a graphic developed by the City showing how a conservation design reflects the open space principles and how that would apply to this property. She referenced the conservation objectives and noted that their application attempts to meet all of those objectives. She reviewed the definition of a conservation area and stated that the definition specifies that one or more of the objectives must be met. She provided additional information on the contingent settlement agreement, which was reached between the City and Stonegate, which includes a concept plan. She highlighted aspects of the agreement which both parties agreed to including a density

bonus of 190 percent, upland buildable not less than 30 percent, land stewardship plan will be prepared, 2011 wetland delineation will be used for Preliminary Plat, three acres of wetland will be restored in the central area, public road will connect Homestead with Deerhill Road, public trails as depicted on the Concept Plan, and Minnesota State Rules will be followed for septic design. She stated that they attempted to meet specific goals and objectives when designing this application including the terms outlined and agreed upon by the contingent settlement agreement, incorporation of comments received by the Council and City staff related to the draft Concept Plan, meeting the goals of the Comprehensive Plan and Open Space Report as well as the Conservation Design Ordinance, and to listen to the comments and concerns of the staff, Planning Commission, City Council and neighboring residents in order to create an exceptional conservation development. She stated that they have enhanced the north-south greenway corridor, reduced the roadway length/quantity, restore prairie, wetland restoration, public and private trails, and dedication of 1.73 acres as public open space noting that all those items meet different aspects of the Conservation Design Ordinance objectives. She identified the areas where private trails would be placed, noting that the trails have not been placed on the map as of yet because the location can be changed along with the prairie restoration. She stated that they would work with Minnehaha Creek on the locations that would work best. She provided a photograph of Deerhill Road in its current capacity as it connects to this property and explained that they are proposing a reduced street width and right-of-way in order to better blend with this unique roadway. She provided a summary of the septic information proposed for the development and noted that an expert is also in attendance should the Council have additional questions. She provided additional information on the additional flexibility requested for secondary septic locations within the conservation easement, noting that their plan is not to use those but they would like to have that flexibility as a contingency.

Kim Chapman, AES, stated that he was asked to provide additional details on the land stewardship plan. He stated that the plan lays out locations of where prairies will be, where the wetland will be created, and the location of the Tamarack Swamp. He stated that the land stewardship plan will require a diverse mix and the quality of the prairie will be very good and perhaps better than the prairie that previously existed. He stated that trained professionals would be restoring and managing the prairie. He stated that the wetland created will also be better than what previously existed. He stated that there will be consistent management over the three-year period from trained professionals. He stated that he has been in this business for 15 to 20 years and the person that wrote the stewardship plan has worked with him on dozens of restoration plans for the past 12 years.

Haskamp provided additional details on the conservation easement, noting that they have been in constant communication with the Minnehaha Creek Watershed District. She stated that a memorandum of understanding was executed with the Watershed on June 18, 2015 and they will continue to work with the Watershed. She referred to the outstanding items not covered by the staff report. She stated that in regard to the half-moon they would like to allow passive recreation on approximately two acres, with a planting plan to be development through the Minnehaha Creek Watershed District. She stated that in regard to park dedication the applicant is requesting that due consideration be given for the trails and other elements within the development including 9.25 acres of wetland buffer, 1.86 acres of open space where the community pool is located, 38.47 acres of buildable upland is included in the conservation area, and area for public trails. She noted that while there are trails proposed adjacent to the right-of-way, the trails do

not run through the right-of-way. She stated that this shows that 52 percent of the gross site is included in open space or public area.

Pederson stated that this is not a public hearing but noted that he would allow short comments from the public.

Martin asked the net effect of the wetlands, as some would be created and some would be filled.

Haskamp stated that the overall total will increase from what exists today. She stated that it is difficult to have an exact number because of the 2011 delineation, but believed the net effect to be around two to 2.5 acres. She stated that the contingent settlement agreement spells out three acres and explained that a portion of that would be used for mitigation for some of the small wetlands that the road may cross through.

Martin referenced a connection from Morningside into the site as mentioned by the Park Commission and noted that the applicant plans for private trails in that area instead. She asked for additional information on whether there would be the ability to maintain a pathway that could be used.

Haskamp stated that specific question has not been raised before. She stated that there have been conversations with the trail material. She stated that they are adamantly opposed to using bituminous for this trail. She stated that she would have to discuss that question with the owners.

Martin referenced the pool site and asked for additional details regarding the well and septic as well as plans for the discharge of the pool water.

Haskamp stated that at the present time they are proposing to use a holding tank for the pool area. She stated that there are several septic sites that can accommodate the use but explained that their septic designer has recommended that the design be delayed until the time when the actual level of usage is known.

Martin asked for additional details regarding the holding tank.

Sara Heger, PRDC, explained that holding tanks are emptied out by a hauler. She explained that an alert is made before the tank is full so that you can have it emptied without any threat of overflow. She stated that typically the system is then placed on a schedule for emptying by the hauler.

Martin asked for more information on what would be done with the chemicals that are in the pool water when that water is discharged.

Heger replied that pool water would never go into a septic system. She explained that the holding tank would be for the septic waste. She stated that there would need to be a plan for what would be done with the pool water, noting that there is guidance for pool water that has been treated.

Martin asked for additional information on whether the pool would have a pumping schedule and what would be done with the chlorinated water.

Heger stated that there is a process to dechlorinate water, which would probably be done prior to discharge. She stated that she could follow up to provide additional information, noting that is not her specialty.

Martin asked for additional information on the effect chlorine could have on prairie grass.

Chapman stated that there are a lot of prairie grasses that are tolerant of things such as saline and chlorine. He stated that people use plants to clean up contaminated sites. He stated that if designed properly the plants can withstand discharged pool water.

Pederson questioned if the pool would be private or public.

Haskamp stated that the pool would be private and managed through the HOA. She stated that the site that contains the pool is not included in the conservation area calculations.

Martin referenced the additional buffers mentioned by the applicant and questioned how that area is different than the amount of setback that would be required through the regular City Ordinance.

Haskamp displayed a map that identifies areas required for buffer and the buffer being provided by the application.

Martin referenced the issue of park dedication and noted that the pool area and the private trails will not be open to the public and therefore did not see a reason why those should be applied towards park dedication.

Haskamp stated that perhaps the attorneys present tonight could provide additional detail. She stated that the State Statute is very specific on the items that can be counted towards park dedication and does not differentiate between private and public. She stated that the additional amenities provided to the residents of this development would place less demand on the City amenities.

Anderson asked if Haskamp was stating that the parks and trails for the property are planned for only the residents in that development by the developer.

Haskamp stated that is not what she was saying and explained that the State Statute is clear on the amount of demand that this development would place on the demand of the public amenities and the nexus should be considered. She stated that the entire park dedication, ordinance and fee schedule of the City should be based on the nexus and fulfillment of the ultimate park plan for the City.

Anderson referenced the wetland delineation, noting that when the contingent settlement agreement was made the determination had been made that the 2011 delineation would be used because a new delineation would not be prepared until weather permits. He asked if an updated wetland delineation has been completed at this time.

Haskamp stated that the boundaries have been delineated but the report is not complete at this time and therefore has not been submitted. She was unsure when the report would be finalized because of the increased demand for such work during development season.

Anderson asked whether the applicant would be willing to go back to a 24-foot roadway as the settlement agreed upon.

Haskamp agreed that the applicant would do that.

Cousineau referenced the actual amount of upland buildable and questioned if that figure is 126 acres or 132 acres, noting that the figures used for park dedication and the main application are different.

Haskamp explained that the net buildable total in the application is based on the quantities provided by the surveyor, which is 126 acres.

Cousineau stated that for the purpose of the park dedication the figure is shown as 132 acres.

Sparks explained that the calculations used under the Park Dedication Ordinance is different.

Pederson stated that he would now allow comments from members of the public.

Johnson explained that if residents have spoken at the Park or Planning Commission meetings those comments have already become part of the public record.

Cindy Piper, 2905 Willowood Farm Road, stated that she has rode horses on the trails in Medina for 26 years. She stated that this is a circus and believed that the vote tonight has already been made when the contingent settlement agreement was made. She stated that the City has already spent over \$400,000 on legal fees and this was done through closed session meetings. She stated that the developers stand to make a large amount of money off this development and can pay for this legal wrangling. She stated that the City cannot afford to compete with those figures. She read some of the statements made by the previous City Council in regard to this situation. She commented on the high amount of traffic already on County Road 6 and did not believe that adding an additional 42 homes would help that situation. She realized that the current City Council is bound by the terms of the settlement agreement but asked that they consider the importance of how rural residential development is done now and in the future.

Kristin Chapman, 1910 Iroquois Drive, stated that she spoke at the Planning Commission meeting and has since developed a more thoughtful response. She stated that she is not a neighbor to this development and will not have to look at these homes. She stated that this is a bigger issue because everything about this development will spill over and affect the rest of the residents. She referenced Willow Drive and Deerhill Road. She referenced the traffic counts on Deerhill Road, noting that there are only 14 lots on that roadway right now, and the affect that adding those additional trips will place on that roadway and its residents. She stated that the traffic will demand a stop sign for the Deerhill Road and Willow Road intersection. She noted that additional intersections in the area will also require upgrades to stop signs or stoplights. She did not believe that the City did its own due diligence in reviewing this application. She understood that the City was burdened with legal fees in this case but believed that additional follow up should be done by hiring additional consultants. She stated that a lot of referenced was

made to the Open Space Planning Committee, noting that it was a contentious Committee. She stated that she chaired that Committee and noted that Seeland was also a member of the Committee even though she was not a resident. She stated that the Committee only considered the northern portion of the site, with the Tamarack Swamp, as high priority and not the larger remainder of the site. She stated that while she thinks it is great that the applicant would be planting prairie grasses, she did not want the Council to confuse prairie with high quality land. She stated that her issue is with the density bonus level. She stated that there is a lot more going on and is skeptical because she does have experience. She was concerned with how this is moving forward and with the contingent settlement agreement. She stated that she agrees with the comments made by Ms. Piper.

Clarkson Lindley, 1588 Homestead Trail, stated that he is present on behalf of himself, his wife and his son. He stated that he has concern with the number of septic systems and wells. He stated that he feels the density bonus is out of discussion as that has been agreed upon in the contingent settlement agreement. He stated that there was an inconsistency with the septic information, as the applicant stated that 41 out of 42 lots that can accommodate primary and second septic sites on the lot and then asked for additional flexibility to place secondary septic systems outside of the lots. He stated that he also has an issue with the density of the water wells and the affect 42 wells on that property could have on the ground water.

David Weigman stated that he is present in representation of the Buckleys at 1582 Homestead Trail. He referenced a trail connection, which appears to connect to a gap between the Buckley and neighbor property. He stated that the gap has been repealed and questioned if that had been removed from the plan.

Haskamp stated that the property owner does not have jurisdiction over that area and that would be the decision of the City.

Weigman stated that he would simply ask that the City consider that when discussing trails.

Karen Jacobs, 1632 Homestead Trail, recognized that this is an issue of money with the settlement but asked that the Council consider the rural platforms they ran on when they were elected. She stated that this development does not support rural character and believed the 22 homes allowed under regular zoning would match the rural character. She stated that there is a big presentation of how 42 homes would better conserve over 22 homes and she is not seeing that to be true.

Bob Franklin, 2819 Lakeshore Avenue, referenced the contingent settlement agreement and questioned how set in stone the terms are. He asked the Council what the alternatives are that the Council may consider other than accept or reject, such as lesser density or different layout. He stated that the City ordinance states that there must be five acres of suitable soils for septic systems and questioned how septic systems are going to be placed on lots of less than two acres. He questioned how the City would say yes to these numbers but no to other properties that will come forward in the future for development. He stated that trails usually connect from one area to another and stated that perhaps kids from this neighborhood would want to play with their friends in the Morningside neighborhood. He stated that this does not appear to match the Comprehensive Plan and questioned what the Metropolitan Council would think of that.

He questioned who would be responsible for the cost to maintain the private trails. He believed that a very detailed response to the proposal should be given that would stand up in litigation. He stated that with 2,000 acres of open space across from this property it is probably not critical to maintain as open space.

Steven Pflaum, 2725 Deerhill Road, stated that his property abuts the proposed development. He stated that the agreement brought forward is within the parameters of the contingent settlement agreement. He stated that given the fact that this is a large development that is using the City's cluster housing plan to maximize the open space to preserve the eastern border of the property, which is the highest value area of the property. He stated that his main interest and concern is Deerhill Road and understood that the price of the deal is that Deerhill Road will be used. He stated that they would like to see the width of the road and tree cover preserved as Deerhill Road is a historic farm road. He stated that if the road is left gravel that would maintain a low speed on its own. He stated that if the road is to be paved he would like to see the width remain the same. He stated that he would also like to see construction traffic remain off the road. He stated that he supports the 22 foot width of the proposed development roadway as that would better mesh with the existing characteristics of Deerhill Road.

Johnson stated that staff also provided written comments received from Judy and Chris Mallett of 2492 Willow Drive, Minnehaha Creek Watershed District, Elizabeth Goodman of 2495 Willow Drive, and Karen Jacobs who spoke tonight.

Martin stated that people have commented that the Tamarack Swamp would always be preserved, even under regular development. She stated that is true and explained that under the CD-PUD up to 30 percent of the buildable land would be conserved. She reviewed items that result in loss of habitat, such as mowed lawn and installation of swimming pools. She stated that potentially there would be more houses in this development, but there would also be an ability to preserve open space that others can enjoy that would not be provided through regular development with larger lots. She stated that the Council must determine what it is worth in terms of the additional number of homes. She referenced the contingent settlement agreement and stated that is not a result of this application, noting that this application was not under consideration prior to initiation of the proceeding. She stated that this application is only a portion of the property and that does not result in an automatic positive vote. She stated that the potential density bonus of 190 percent is based on the quality and amount of the land preserved. She referenced the economics and stated that as a City Council the Council cannot take into consideration the amount of profit a developer would make. She stated that there is a substantial cost to create the lots that would be sold and the developer does not walk away with the total amount of sales in profit. She stated that the roads are typically designed to accommodate future development that may occur in the City, providing the example of Hunter Drive, which began as a country road and is now a well-traveled roadway. She stated that a substantial amount of the project cost for Deerhill Road will be assessed to the lots on the new road and perhaps paid the developer. She referenced the claim that the City has not done its due diligence and noted that the City does in fact have its own consultants that work on behalf of the City. She stated that everyone in the room has worked very hard on this application. She noted that County Road 6 is slated for future extension of urban sewer and sanitary services. She explained that because these properties will not rely on municipal services that will make this a less attractive path for the Metropolitan Council and that could be good for this area in the long run to retain the rural residential character.

Anderson stated that he believes this plan is a good thing but stated that is not the proposition before him. He stated that the proposition in front of him is to determine if the plan is worthy of a 190 percent density bonus, which is deserved for an excellent A+ plan. He credited the applicant and team that brought this forward. He stated that this would not have come before the City if the contingent settlement agreement were not signed. He stated that although this is a good plan he did not think it is worthy of a density bonus of 190 percent.

Cousineau concurred and appreciated the comments made by Martin. She stated that she has been pouring over this application for the past few days and has looked at the balance between the benefit the City would receive and the density bonus requested and does not see that to be equitable. She agreed that this is a good plan but believed that it would need to be better to justify a density bonus of 190 percent.

Pederson agreed that this is a good development plan but does not see that it is an A+ and would earn a density bonus of 190 percent. He stated that he was disappointed that the wetland delineation has not been provided. He referenced park dedication and did not see the benefit to the public. He stated that the pool is off limits and there is no benefit to the City. He stated that every development that has come before the Council has been required to have a park dedication. He referenced the road issue and stated that for public safety a 24-foot road would be needed with a 60-foot right-of-way. He stated that if the residents of Deerhill Road would like the road to remain at its current width he would support that but does not believe that it could remain as gravel. He stated that if the decision is delayed and the residents request the road to be upgraded in the future the cost would be assessed solely to the residents and not the developer. He referenced the conservation area and stated that there are some lots where the ultimate septic system location is unknown. He stated that as much as he does not like the idea of placing septic systems in the conservation area, he would favor that over removing trees.

Cousineau stated that if the density were reduced some of those issues would be mitigated, such as traffic and septic placement.

Martin stated that this is a very thoughtful application and appreciated the efforts of the applicant and the stewardship plan. She referenced the density bonus of 190 percent and stated that is the upper boundary of what is allowed under the contingent settlement agreement. She stated that the contingent settlement agreement states that there is discretion based on how well the conservation design objectives are achieved compared to what would be achieved under standard development. She stated that the size of the conservation area is substantially large. She stated that the ordinance specifies that at least 30 percent of the buildable area would need to be conserved but noted that the application specifies a little over 30 percent. She referenced Outlot E, which the applicant would like to use for recreation, and she believes increased recreational use would take away from the prairie area. She stated that she would prefer to see the entire Outlot E planted with prairie grass. She noted that there would be enhanced water treatment with the additional wetland buffer. She stated that native forest will not be removed from this development, as that area would be conserved along with the Tamarack Swamp. She credited the developer for being careful to protect the hardwood forest, which could be removed under regular development of the site. She referenced the restoration of 47 acres that will assist in runoff infiltration and other stormwater

benefits. She stated that the septic systems appear to be of a higher grade, which will also have a benefit to the environment. She stated that there are concepts in the Ordinance that state there should be some public benefit provided by the development and read those objectives. She stated that there was a comment made by the Planning Commission that there isn't much preservation occurring in the first phase of development over what would normally occur through regular development. She stated that it is important to note that as a condition the easements for the conservation area would be granted and obtained through the first plat. She stated that the public has commented at the lack of public benefit as it would be difficult to get into the site when walking or biking. She believed that an enhanced trail system would help to justify the density. She referenced one lot with a secondary site proposed in the hardwood forest and asked for additional information.

Haskamp stated that there is one secondary site proposed and noted there would be approximately six sites closer to the property boundary and one of those could be chosen instead to avoid the forest. She stated that in addition to the prairie grasses that were planted through the conservation reserve program, trees were planted through that program as well.

Martin stated that there is more value to the conserved areas than perceived, such as the forest area, prairie restoration of 47 acres, and the enhanced preservation of the Tamarack Swamp. She referenced the roads and explained that the 24-foot roadway and 60 foot right-of-way is important for maintenance and access. She stated that she would like to keep the road width to 24 feet and the right-of-way to 60 feet. She stated that hardcover can be reduced by allowing the builder to build the homes closer to the road in the front, which is allowed under the Ordinance. She stated that if she were to recommend approval she would recommend a condition that the required easements and permission from Orono be obtained to place a curb cut. She referenced the issue of Deerhill Road and noted that increased use will require increased maintenance. She believed it would be important to restrict construction access to Homestead Trail to save Deerhill Road and its residents from that traffic. She referenced the issue of trails and park dedication and stated that under the contingent settlement agreement the trails are to be consistent with the City trail plan. She stated that the agreement also gives the Council discretion to determine the amount of park dedication. She stated that the developers have been required to dedicate 10 percent of the land area, pay cash in lieu or a combination of those two aspects. She stated that it would be valuable to the trail plan to be able to move trails through that area. She stated that about 50 percent of the proposed trails seem to align with the road system, 20 percent lie between a road and open space, while 30 percent cross the open space. She stated that the plan lacks a connection to Morningside that she believed would help to increase the density bonus. She noted that Morningside has great amenities for active play and children. She stated that she would like to see a connection between this development and Morningside. She stated that right now the Park Dedication Ordinance would require 13 acres and right now there are about three acres being provided. She appreciated that the applicant would not want bituminous trails in the prairie, but was not sure why that type of surface would not be allowed in the trails through Outlot E, noting that it is difficult to push a stroller or wheelchair on a turf trail. She stated that she is worried that the applicants suggested partial waiver of the City's park dedication ordinance would set a precedent that would vary from the Ordinance. She stated that the trails would be needed to support the density bonus and did not think those should be counted against park dedication as well. She stated that community septic systems were considered through

the contingent settlement agreement and noted that the proposed multi-flow systems would be a considerable benefit over that option. She stated that she would need more information on the pool as she is worried that chlorinated water could be discharged into the prairie and Tamarack Swamp, noting that she would want an additional condition that would require a plan for that discharge and that would specify that after a certain amount of time a septic system would be installed for that pool area. She stated that perhaps one lot would be used to accommodate the septic for the pool as well as provide an active play area for children. She stated that while she does not want to deny the application she is not prepared to give a density bonus of 190 percent at this time. She suggested that the Council direct staff to prepare two resolutions, which would be reviewed on August 18th, one that would deny the application and one that would approve the application based on a new set of plans the applicant would prepare in conjunction with the comments made tonight.

Batty stated that could be an option, noting that option was included in the staff report and would allow time over the next two weeks for the applicant to review the comments made tonight and make desired changes. He stated that it has been said that there would be value in seeing that revised delineation and there was uncertainty of when that would be available. He stated that there would be value to seeing that information as that is still hanging out there and would be required by Final Plat. He stated that perhaps the developer would grant an extension that would allow staff to prepare the resolutions of approval or denial. He stated that there is one more meeting in September before the time expires although staff does not like to push against a deadline.

Anderson stated that he would support the proposal that staff prepare two resolutions as that would be consistent with the feelings of the Council expressed tonight. He stated that the plan has come a long way and every time it gets better. He stated that numerous suggestions have been made by the Council that could enhance the plan to the satisfaction of the Council and citizens.

Cousineau stated that a possible reduction in density should also be included.

Pederson commended Martin for outlining the information tonight and presenting the decision the Council must make.

Martin referenced the proposed conditions of approval in the staff report and clarified that in respect to condition three, the applicant may reduce the front yard setback; number four should be amended that the homeowner's documents would require that the lot owners themselves would maintain the septic systems; the HOA would own the land and be responsible for the drain fields to attend to the necessary maintenance that may be needed; condition five should be amended to specify that the future phasing plan would contain easements for the conservation areas within the first phase of development; the septic systems should comply with wetland buffer setbacks; the pool lot would need to accommodate a septic site and a date should be set at which time the septic system would need to be installed on the site; condition 16 should be amended to state that surety would be required to ensure that the restoration work occurs and the stewardship plan is carried out; and noted that she could support the bonus density if additional enhancement is provided. She stated that necessary easements would be needed through Orono for the access on Homestead Trail.

Anderson stated that he would add to the conditions that the road be 24 foot in width with a 60 foot right-of-way, noting that the applicant was in agreement that could be done. He also believed that a wetland delineation would be helpful.

Martin stated that the wetland delineation is not required until Final Plat but agreed that it would be helpful.

Anderson stated that another condition should be listed that the construction traffic should only access the property from Homestead Trail.

*Moved by Martin, seconded by Anderson, to direct staff to prepare two resolutions, one of denying the application and the second to approve the application with conditions as discussed by the Council and presented in the staff report based on a new set of plans and perhaps the new wetland delineation. **Motion passed unanimously.***

Kristin Chapman stated that she was confused by the process as it was specified that this was not a public hearing and yet there were many issues raised by the public at this meeting that she did not feel were addressed. She stated that a lot of things were done behind closed doors during this settlement process. She stated that if concerns were allowed to be brought up she believed those should be addressed. She questioned when the appropriate time would be to bring up those concerns. She stated that she would like to see the opinions of the City consultants to prove that a second set of eyes were on the information provided from the applicant.

Martin stated that there have been public hearings on this matter and the summaries of those meetings have been reviewed by the Council.

Bob Franklin stated that as a former member of the Council, public decisions need to be made in public where people can observe. He stated that the purpose is not to have a back and forth argument between the public and Council. He did not feel that his concerns have been dismissed; noting that he is planting the seeds of thought and is satisfied with the Council action. He appreciated the thoughtful discussion of the Council tonight.

*Moved by Anderson, seconded by Cousineau, to briefly recess the meeting at 10:03 p.m. **Motion passed unanimously.***

Mitchell reconvened the meeting at 10:04 p.m.

B. Town Line Road North Improvement Project (10:04 p.m.)

Scherer presented the Town Line North improvement project and the two public hearings connected to the process. He stated that this will be an overlay project and identified the project area. He noted that this is a project done in conjunction with the neighboring city of Independence and reviewed a description of the project. He presented the cost estimate for the improvements, noting that the cost will be split between the two cities. He displayed photographs of the roadway and noted that while the road is holding up well, an overlay is needed.

Cousineau received confirmation that the project area includes two property owners and three lots and believed that an alternate form of assessment was agreed upon.

Scherer explained that the calculation used to determine the assessment for the properties.

Batty stated that the Council can conduct both public hearings simultaneously. He stated that the first hearing would be regarding the improvement and whether that should move forward while the second public hearing would be in regard to the assessment. He stated that as noticed if property owners wish to appeal their right for assessment they need to file their written objection prior to the close of the public hearing tonight. If that is not done, the right to appeal the assessment will be lost.

Mitchell opened the public hearing at 10:09 p.m.

No comments made.

Mitchell adjourned the public hearing at 10:10 p.m.

1. Resolution No. 2015-66 Approving Plans According to Feasibility Report and Ordering Town Line Road North Improvement Project – Public Hearing

*Moved by Martin, seconded by Pederson, to adopt resolution no. 2015-66 approving plans according to Feasibility Report and ordering Town Line Road North improvement project. **Motion passed unanimously.***

2. Resolution No. 2015-67 Adopting Assessment Roll for Town Line Road Overlay Project – Public Hearing

*Moved by Martin, seconded by Anderson, to adopt resolution no. 2015-67 adopting assessment roll for Town Line Road Overlay Project. **Motion passed unanimously.***

C. Ordinance No. 586 Related to Solar Equipment; Amending Chapter 8 of the City Code (10:11 p.m.)

Finke provided background information on the recent changes to the solar equipment requirements that were approved by the Council in February. He stated that public comment at that time asked that the City also consider ground-mounted equipment to also be made allowable in some of the residential zoning districts. He stated that the draft Ordinance proposed would allow ground mounted solar panels within the rural residential zoning districts, with a minimum size of five acres for the lot. He reviewed some of the aspects of the Ordinance as proposed. He stated that the Planning Commission held a public hearing the previous month and recommended unanimous approval of the Ordinance amendments.

Anderson stated that he attended the meeting at which the Planning Commission discussed this matter and commended the Commission for their efforts.

Pederson stated that he also attended the meeting and thought the Commission did an excellent job.

Martin referenced the maximum height of 15 feet and asked for additional information.

Finke stated that the interested residents did not have any concerns regarding the practicality of the Ordinance. He stated that the model suggests 20 feet and the City simply lowered that a bit. He noted that the Wright Hennepin model had ten-foot panels.

Cousineau stated that in the Ordinance as written the language states for parcels that exceed five acres and asked if the language should specify five acres or more.

Finke confirmed that change could be made.

Martin stated that this is a nice step in the right direction.

Mitchell referenced a written comment from a resident that spoke at the Planning Commission meeting as well and thanked her for the input.

Chris Pederson, Bloomington resident, thanked the Council for bringing this forward in this manner. He stated that with the minimum setback on a five-acre lot recommended of 100 feet that would remove two acres of buildable space on those lots. He stated that limits the placement where panels could be put on the lot. He stated that a 50-foot setback would be sufficient. He also questioned where the 1,000-foot maximum was developed.

Finke stated that the setback was developed because there was an interest that the setback be larger because of the appearance and potential impacts that could occur from neighboring properties. He stated that the maximum footprint was developed to bring the installation to a residential scale. He stated that the calculation was determined by reviewing the expected output over a one-year period to the expected residential use.

Moved by Martin, seconded by Pederson, to adopt ordinance related to solar equipment; amending Chapter 8 of the City Code.

Further discussion: Mitchell stated that the City is attempting to move into this slowly.

Motion passed unanimously.

1. Resolution No. 2015-68 Authorizing Publication of Ordinance No. 586 by Title and Summary

*Moved by Martin, seconded by Anderson, to adopt Resolution No. 2015-68 Authorizing Publication of Ordinance No. 586 by Title and Summary. **Motion passed unanimously.***

VIII. APPROVAL TO PAY THE BILLS (10:24 p.m.)

*Moved by Martin, seconded by Cousineau, to approve the bills, EFT 003256E-003270E for \$43,221.76, order check numbers 43122-43186 for \$561,420.88, and payroll EFT 506557-506582 for \$46,237.16. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT (10:24 p.m.)

Kellogg stated that asbestos removal has been completed on the Tower Drive project, noting the action affects three line items for the project. He stated that while one line item was increased, the two other line items were decreased as a result. He stated that the net change order approved was around \$135,000 and that is where the project ended. He confirmed that the grant was also received in the amount of \$50,000.

X. MAYOR & CITY COUNCIL REPORTS (10:26 p.m.)

Mitchell commented on the number of City Council members, Police staff, and Fire staff that took part in Night to Unite and thanked everyone.

XI. ADJOURN

Moved by Anderson, seconded by Pederson, to adjourn the meeting at 10:26 p.m.

*Motion **passed unanimously.***

Bob Mitchell, Mayor

Attest:

Scott Johnson, City Administrator