

MEDINA CITY COUNCIL MEETING MINUTES OF AUGUST 18, 2015

The City Council of Medina, Minnesota met in regular session on August 18, 2015 at 7:02 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, Public Works Director Steve Scherer, Public Safety Director Ed Belland, and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE (7:02 p.m.)

III. ADDITIONS TO THE AGENDA (7:03 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:03 p.m.)

A. Approval of the August 3, 2015 Special City Council Meeting Minutes

*Moved by Anderson, seconded by Pederson, to approve the August 3, 2015 special City Council meeting minutes as presented. **Motion passed unanimously.***

B. Approval of the August 5, 2015 Regular City Council Meeting Minutes

It was noted on page two, line 40, it should state, "...~~would not have a financial interest while he does not have a conflict...~~" On page three, line 46, it should state, "~~there the...~~" On page three, line 25, it should state, "...~~certain aspects~~ objectives..." On page seven, line 43, it should state, "...agreement was made the determination had been made that the 2011 delineation would be used because of the time of year a new delineation would not be prepared until weather permits." On page seven, line 50, it should state, "...finalized because of the ~~timing with~~ increased demand for such work during development season." On page 10, line 31, it should state, "...~~that it...~~" On page 10, line 33, it should state, "...~~at that time~~ prior to initiation of the proceeding." On page 10, line 43, it should state, "...assessed to the lots on the new road and perhaps paid by the developer." On page 10, line 46, "She noted that County Road 6 is slated for future extension of urban sewer and sanitary services." On page 10, line 51, it should state, "...~~long run if it wants...~~" On page 10, line 13, it should state, "...~~is if...~~" On page 11, line 43, it should state, "...~~45 percent~~ a little over 30 percent. On page 11, line 42, it should state, "...~~conserved and but...~~" On page 11, line 44, it should state, "...she ~~believed~~ believes increased recreational use..." On page 11, line 46 it should state, "...~~entire area~~ Outlot E..." On page 12, line 32, it should state, "park dedication and..." On page 11, line 35, it should state, "...~~pay~~ dedicate ten percent of the land area, pay cash in lieu..." On page 11, line 38, it should state, "...~~there is a lacking~~ the plan lacks a..." On page 12, line 46, it should state, "...~~this~~ the applicants suggested partial waiver of the City's park dedication ordinance." On page 14, line 10, it should state, "...approve the application subject to the 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.” On page 14, line 17, it should state, “...there were many valid points brought forward issues raised...”

*Moved by Anderson, seconded by Cousineau, to approve the August 5, 2015 regular City Council meeting minutes as amended. **Motion passed unanimously.***

C. Approval of the August 13, 2015 Special City Council Meeting Minutes

*Moved by Pederson, seconded by Cousineau, to approve the August 13, 2015 special City Council meeting minutes as presented. **Motion passed unanimously.***

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

- A. Accept Grant from Shakopee Mdewakanton Sioux Community for a Defibrillator at the Hamel Community Building**
- B. Approve the Wetland Replacement Plan for the 1400 Blackfoot Trail Project**
- C. Approve Public Works 2016 Replacement Truck**
- D. Resolution No. 2015-69 Approving Master Partnership Contract with Minnesota Department of Transportation**
- E. Resolution No. 2015-70 Approving Off-Site Gambling Permit for the Hamel Lions Club to Conduct Lawful Charitable Gambling at 3200 Mill Drive**
- F. Resolution No. 2015-71 Requesting a Speed Study by Mn/DOT on Meander Road and Chippewa Road**

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

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

A. Comments from Citizens on Items not on the Agenda

Dawn Nelson stated that she is proposing to put in a small eatery at 190 Westfalen Trail in Hamel and is concerned with the sewer and water connection charges. She explained that the charge for the 44-seat eatery would be \$1,000 per seat, which is a charge that she would not be able to recoup.

Mitchell encouraged Nelson to work with Finke to draft a proposal that could come back before the Council for consideration.

B. Park Commission

Scherer stated that the August meeting for the Park Commission has been canceled due to a lack of agenda items. He noted that the Fields of Medina Park is now open and welcomed the public to attend the open house on August 26th.

C. Planning Commission

Planning Commissioner Williams reported that the Commission considered an application for a variance and Preliminary Plat, noting that the Commission deadlocked with a three to three vote. He stated that the Commission also considered a variance to expand a deck and recommended unanimous approval as the encroachment would not exacerbate the current encroachment. He noted that the Commission also considered the Ordinance amendment that the Council will consider tonight regarding deck setbacks and advised that the Commission recommended denial with a vote of 5-1 as the Commission believed the current setback of 15 feet to be appropriate.

VII. OLD BUSINESS

A. Stonegate CD-PUD General Plan and Preliminary Plat (7:18 p.m.)

Mitchell recused himself from this discussion.

Pederson thanked the residents in attendance for their continued input. He noted that the Council does have the comments made at the Park Commission, Planning Commission and previous City Council meetings as well as submitted written comments from residents and asked that residents not repeat comments they have already made.

Finke stated that at the August 5th meeting the Council considered a request from the applicant for a 42 lot CD-PUD subdivision request and directed staff to prepare two Resolutions, one of approval contingent upon changes being made to the plan and one of denial should those changes not be made. He stated that the applicant submitted an updated plan and also granted an extension of the review period for the City. He explained that staff therefore did not prepare the Resolutions at this time and instead believed that the Council should review the updated plan and can then direct staff to prepare the appropriate Resolution. He highlighted some of the changes made to the plan since the last review including a reduction in the lots, removing one residential lot and the pool lot; an increase to the conservation area; Outlot E is proposed to be planted similar to the other prairie plantings; added and extended trails; and an increase to the road width and right-of-way. He stated that the Council should review the plan to determine if the changes are sufficient. He stated that the extension granted by the applicant extends the deadline to September 18th, which allows for two additional Council meetings.

Jennifer Haskamp, SHC, stated that one of the recommendations made at the last meeting was that the new portion of Deerhill Road should be brought to full City specification and noted that the Site Plan has been modified to reflect that adjustment and the plans had been adjusted appropriately. She stated that the cul-de-sacs are still proposed to be private but would have 50-foot right-of-way with 22-foot road surface, similar to other cul-de-sacs in the City. She stated that draft information of the new wetland delineation was also provided to the City, as requested, and highlighted some of the changes from the 2011 delineation. She referenced the comment the Council made regarding increased public access to the open space areas and noted that there has been discussion with the Minnehaha Creek to possibly create a boardwalk that could help access the island to the north. She stated that an added connection has also been provided to the Morningside neighborhood that travels through the conservation area. She stated that some of the other trails that were originally proposed had been removed in order to further the restoration efforts. She stated that by eliminating the pool outlot they were able to shift two lots to the south and remove all the wetland boundary from the lots, noting that all the wetland boundaries now lie within the conservation area. She referenced Outlot E and stated that the entire area would be planted with prairie grass and another one to 1.5 acres has been added to that area. She stated that one residential lot was also removed from the south, which was the lot that had the secondary septic site within the conservation area. She explained that all the lots now have primary and secondary septic sites within their lot boundaries. She stated that Outlot C would now contain the sloped area as well, as that slope would then be protected from development and would protect the scenic view from the roadway.

Martin asked where the applicant stands on the prior request that there be flexibility to place the secondary septic sites in the conservation area.

Haskamp stated that at this time they are not intending to place any secondary septic sites within the conservation area and noted that flexibility was simply requested to provide a backup to the backup. She stated that the request still stands but the plan is not to utilize that option, noting that would only be utilized in a worst-case scenario.

Laura Domyancich, Minnehaha Creek Watershed District, thanked the Council for the opportunity to be present tonight to provide comments. She stated that it is in the interest of the Watershed to be involved in the upfront planning process, noting that the District was engaged by the applicant and property owners in January to provide input on this process. She stated that the Watershed staff was directed by its Board to provide conservation objectives within the development and noted that a memorandum of understanding has been entered into by the Watershed and the applicant.

Cousineau asked for additional information regarding the Watershed's perspective on bituminous trails.

Domyancich stated that there are several types of trails within the Watershed and noted that the objective is to review the trail types and how those trails fit within the site. She stated that for this site they would prefer mowed trails that would be in a less permanent location and could be shifted throughout time to provide access to different parts of the conservation area. She stated that although the trail would be mowed at this time, it could be paved in the future. She confirmed that the only trail that would be roving is the trail that would connect from Morningside through the conservation area. She noted that they have discussed opportunities for accessing the Tamarack Swamp, including the possibility of a boardwalk.

Anderson asked when the boardwalk would come into play.

Domyancich stated that would be in the future as discussions on the boardwalk have just begun.

Martin noted that one of the residents stated that she had spoken with the Watershed regarding the septic layout and asked for input on the septic layout, the number of wells and septic system, and the impact on water quality.

Domyancich stated that while the Watershed does not have interest in the septic systems, but that is not the purview of the Watershed and is regulated by the Department of Health. She stated that the only concern of the Watershed is that those systems meet the wetland setbacks. She stated that they have enjoyed working with the applicant and the City on this plan to provide input on the areas of planting, restoration, and the cost and length of time to establish such features.

Anderson asked if the applicant has agreed to the seed mix recommended by the Watershed.

Domyancich stated that they have simply provided input at this time.

Steve Pflaum, 2725 Deerhill Road, stated that the give and take between the Council and the developer has again improved the plan. He referenced item ten of the staff report, which references Deerhill Road and states that Deerhill Road should not be used for construction vehicles. He noted that the word "gravel" is used and believed instead the word "existing" or "historic" should be used. He explained that if the road is paved he would still not want construction traffic on the road.

Peter Rechelbacher, 1242 Hunter Drive, stated that he recently purchased the property at 1822 Homestead Trail, which is adjacent to the proposed development. He expressed concern with the public access trail to the Tamarack Swamp area. He stated that he is currently working with the Watershed District to place land and wetlands on his property into a permanent conservation easement. He noted that he is conducting restoration work on his property and is concerned with the proximity of the trail to his property and would be concerned that the public may be confused and wander into the area on his property that he is attempting to restore to its natural state.

Don Gasper, Deerhill Road resident, stated that he is in favor of paving Deerhill Road as that would stop erosion on the roadway. He noted that if the road is paved there is also a better possibility that those residents on Deerhill Road would be able to receive additional utilities.

Kirsten Chapman, 1910 Iroquois Drive, stated that she thinks the plan has made good improvements and is in favor of the boardwalk that would go to the island. She stated that once the development gets going she would be worried about noise nuisance to the neighboring properties during construction. She would hope that there would be limits on the hours of construction.

Martin stated that the City has policies addressing allowed construction times for new development.

Clarkson Lindley, 1588 Homestead Trail, stated that he is present representing himself, his wife, and son. He stated that at the August 5th meeting he expressed concern with the density of the wells and septic systems and the affect that could have on the ground water and surface water. He stated that he has since spoken with a professional that eased his concerns regarding the density of the wells. He stated that in regard to the density of the septic systems the professional did have concern that if some of those systems fail there could be an effect on the surface water. He stated that he does have concern with the trail near his and the Buckley property.

Johnson stated that there were also comments received by Carolyn Smith of 545 Medina Road, Ann Thies of 1922 Willow Drive, Clarkson Lindley, and Kirsten Chapman.

Pederson thanked the public for their comments and appreciated the updates to the plan the applicant has made. He stated that he too was concerned with how the public could be kept out of the conservation area and received confirmation from Batty that signage would be used to keep the public from areas they should not be in.

Martin stated that Chapman also submitted comments on road issues. She asked if additional inquiry had been made to the multiple septic systems.

Kellogg stated that the question posed to him from Chapman referred to paving or not paving existing gravel roads. He believed this to be consistent to City policy. He stated that staff noted that currently in terms of maintenance there is grading and dust control conducted on Deerhill Road. He stated that currently there are about 100 trips per day on Deerhill Road, which would double to 200 under the calculations of the applicant's engineer, and would trigger a consideration for paving. He stated that there is not adjacent property to this area that would develop and use Deerhill Road. He stated that with the exception of Gasper, most of the residents along Deerhill Road are against paving the roadway. He noted that the current conditions of the roadway lend themselves to slower traveling traffic. He referenced Willow Drive and Medina Road, noting that those roads reached over 600 and 400 daily trips respectively before they were paved. He stated that staff does not feel that there is a need at this point in time to recommend paving the existing Deerhill Road unless there is a petition from the residents which requests that action.

Pederson stated that he received a question from a resident asking how Homestead Trail could be used for construction as there is a 35,000-pound road restriction but has been advised by Chief Belland that a portion of the roadway is a County road and does not have that restriction.

Anderson asked if there had been consideration for traffic making a right or left turn from Deerhill onto Willow Drive.

Kellogg stated that was not included in the study. He stated that there appears to be a limited sight distance when turning left onto Willow Drive from Deerhill Road.

Belland informed that City Council that the 35,000 pound weight limit does not apply to Homestead Trail because it is a County Road and there is not a history of car accidents at the intersection of Willow Drive and Deerhill Road.

Anderson stated that perhaps signage could be posted limiting left-hand turns onto Willow Drive.

Belland stated that the police also took their lidar to that location and confirmed that there is limited sight to the left.

Martin noted that comments had been provided from former Council member Carolyn Smith who shared concerns in regard to failed septic systems in the Morningside development. She stated that she did not share the concern as the lots within this development are larger than the Morningside development and perhaps the Morningside lots did not have a secondary site within the lots.

Scherer stated that the septic systems in Morningside were trench systems and noted that the backyards backed up to each other and once the systems failed the City installed the municipal system around 1980. He noted that this would be a much different system.

Finke stated that the lots proposed in this development are larger, the lots are spaced differently and do not backup to each other, and the septic technology has advanced quite a bit since that time.

Anderson thanked the applicant for their improved efforts. He referenced the enhanced trail connection from Morningside and asked if that trail could be extended from the existing Deerhill Road connection further north around the north side of the lots, along the border of the bog.

Martin stated that after reviewing the minutes from the Park and Planning Commissions that segment was not important to those bodies. She stated that the trail system proposed would provide the necessary connections as well as connection to the island area to the north. She reviewed some of the City's trail plans for adjacent properties, should they develop and noted that the applicant's plans were consistent with the City's trail maps. She stated that if the additional trail segment were added that would encroach on the privacy of the owners of the lots having views of the bog. She believed the connection to Morningside was more important as well as the improved protection to the viewshed for Homestead. She stated that she was elated with the restoration and access to the restored area and believed that the City is getting a lot in return for the density.

Cousineau stated that she is concerned with what the trails are made of and believed that would determine usage.

Finke provided additional detail on the base that would be recommended for the turf trail.

Cousineau stated that she would want to ensure that the trail was firm enough for strollers and bikes.

Martin stated that in her mind whatever is necessary to protect and preserve the prairie should be used, noting that if that limits the trail to foot traffic so be it.

Domyancich provided additional detail on the composition of a turf trail, noting that it would be firm, comparing it to a gravel trail that has been grown and mowed.

Pederson asked if there are any requirements for the trails to be handicap accessible.

Kellogg stated that typically there is a five percent maximum grade for a handicap accessible trail.

Martin stated that there would be slopes that would exceed that grade and they would want to preserve the natural slopes as well. She stated that even though the trail might not be connected to the neighboring properties she would like to see a trail cut to the west so that connection could be made, should that property ever be developed.

Finke stated that the trails have been a moving target during this process, especially during the past two weeks. He suggested wider easements in that case and would recommend signage to ensure trespassing does not occur, noting that staff would be mindful of possible connections should those opportunities present themselves in the future. He noted that there has also been discussion regarding private trail corridors.

Finke also discussed the possible trail to the south. Staff had concerns with the proposed connection to the Medina Morningside Neighborhood from the August 11th plan revision because of the steep slopes. The applicant addressed these concerns through a trail connection to the north with their latest revised plans. However, the

possible trail to south would also provide an adventuresome connection for some residents, but would still require maintenance.

Pederson asked if the trail to the south could be closed during the winter months.

Finke stated that the trails could not be plowed, but could be available for cross country skiing or other activities per the direction of the Park Commission and City Council.

Finke reviewed the proposed recommended motion in the staff report.

Anderson stated that he would be in favor of obtaining an easement for a south trail and confirmed the consensus of the Council.

Martin stated that she believes that the updated application does meet the objectives of the Conservation Design Ordinance and received consensus from the Council that the objectives had been met.

Moved by Martin, seconded by _____, to direct staff to prepare an ordinance rezoning the property to CD-PUD and a resolution granting preliminary plat approval subject to the conditions set forth in the staff report as modified in this resolution and conditioned upon the applicant submitting a revised plat and plans consistent with the modified conditions as follows; This resolution includes modifying condition one to refer to the changes on the site plan last received by the City today and reviewed this evening; modifying condition five to specify that easements would be 20 feet in width and trail easements would include the locations on the plan presented this evening with one additional trail connecting Morningside southerly to new Deerhill Road and the easement for a future trail connection to the west from the trail proposed between the island and the cul-de-sac in Block 1; modifying condition seven to clarify that the actual right-of-way would be a 60 foot right-of-way and permitting reduction of the front yard setback of the lots permitted by the Conservation Design Ordinance; modifying condition nine to add "easements" to permits and agreements" and "adjacent land owner" to "City of Orono;" modifying condition ten to read that construction traffic will be permitted on those roads as approved by staff and specified in the Development Agreement; modifying condition 18 to require no significant tree removal from the site beyond that contemplated in the detailed plans last submitted to the City; modifying condition 19 to state the conservation easement is also acceptable to the City (noting that the Minnehaha Creek Watershed District is acceptable as the holder); in condition 24 today's date shall be used; modifying condition 28 to state as shown on the plans reviewed by the City Council on August 5th; adding condition 30 to state that revised plans shall demonstrate that all septic sites shall meet the necessary setbacks as required by City Ordinance requirements and to allow up to 25% of the lots to have secondary drainfields in the conserved area if a secondary drainfield cannot be reasonably accommodated on a lot, the secondary septic site within the conserved area is approved by the conservation easement holder; the installations of the secondary drainfield is completed in compliance with all applicable regulations and the installation does not result in significant hardwood tree loss, and modifying condition nine to include the word easements.

Further discussion: Anderson stated that while this is a greatly improved plan he is unsure that the density requested is justified.

Cousineau agreed that the bonus density is the element that she has struggled with as well, as this is a big ask for this part of the City.

Martin noted that Morningside has a much greater density.

Anderson suggested that this be revisited at the September 1st meeting to address the bonus density issue.

The motion failed for lack of a second.

Cousineau stated that this is a tricky position because of the contingent settlement agreement in place.

Anderson stated that in all of the emails and comments received, the rural character of Medina has been mentioned. He stated that while he cherishes the rural characteristics he also recognizes that those pastures and greenspace belong to someone else. He stated that when speaking of rural character the residents should recognize that those aspects belong to someone else and those people have the right to develop their property. He stated that in respect to this property, the applicant does have the right to develop their property and under current zoning would have the ability to develop 22 lots on their property. He noted that through the Conservation Design Ordinance the developer is requesting a density bonus. He stated that conservation to him means conserving but also opening up that aspect to the public to enjoy, which he believed this trail plan does accomplish and applauded the applicant for those efforts. He stated that his problem is what is actually being protected and what the City is getting in return for the density bonus. He recognized the value of the Tamarack Swamp, noting that is not buildable area, and recognized that the viewshed would be opened up to provide the public with better access to that feature. He referenced the migration of wildlife and stated that this plan should not interfere with the west/east migration as that migration could occur to the north. He stated that he would be more comfortable with a bonus density of 14 to 15 additional lots on top of the developable 22 lots, which he believed would be around 180 percent.

Pederson agreed with the comments from Anderson but noted that there is a contingent settlement agreement. He stated that his sticking points are the bonus density and the trails. He stated that he does not like the turf trails because they cannot be easily maintained. He asked the staff preference for the trail system.

Scherer stated that originally the connection going to the north was recommended to be paved by the Park Commission while the other trail could remain as turf.

Cousineau stated that in respect to the trails the gravel underneath the trail could support bituminous in the future should usage equate paving.

Scherer agreed that some sort of base would be needed under the turf trail, suggesting limestone.

Cousineau stated that she is cognizant to what had been agreed upon in December with the contingent settlement agreement.

Martin stated that she does not find that the contingent settlement agreement binds the City to the 190 percent density bonus and the conserved area should instead justify the density bonus. She referenced other developments that have been approved in the City with smaller lot sizes and no conserved areas or public access. She stated that this development has a lot size of 1.75 acres and is providing 35.6 percent of the buildable area for conservation, which the public can access and walk through. She stated that the setback has been doubled near the Tamarack Swamp, which provides additional protection to the Tamarack Swamp, the applicant has added, protection of the slope on the east to protect the view from Homestead, and protection of the hardwood forest has been provided. She noted that most developers remove the forested areas and was unsure what else the City could ask of the developer.

Anderson agreed with the comments made by Martin but stated that the developer is asking for a bonus density of 190 percent and while the City in return is getting everything Martin has mentioned, he was unsure that would equate to 19 bonus lots. He stated that he is comfortable with 14 to 15 bonus density lots.

Pederson stated that this application is requesting 186 percent bonus density and the question the Council needs to ask is whether the application meets the higher percentile of the Conservation Design Ordinance.

Anderson stated that any plan needs to fit within the area or neighborhood of the City in which it is located and expressed concern with the traffic exiting to Deerhill and then Willow.

Martin stated that traffic impact does not apply to the bonus density, which is based on quality and character of the preserved area.

Moved by Anderson to direct staff to prepare a resolution approving preliminary plat with all the conditions in the staff report based on the bonus density that would equate to a total of 36 lots.

Further discussion: Cousineau stated that she is hesitant to put a number on the lots. She stated that it would be helpful to have input from the applicant on what they are willing to do.

The motion failed for lack of a second.

Gerry Duffy, attorney for the applicant, stated that this plan is what they are willing to do. He stated that if 41 lots is not going to work for the Council then they should do what they need to do and the applicant will do what they need to do. He stated that the extension is based upon approval of the plans and if the approval is not granted the extension will not be given.

Moved by Martin, seconded by _____, to direct staff to prepare an ordinance rezoning the property to CD-PUD and a resolution granting preliminary plat approval subject to the conditions set forth in the staff report as modified in this resolution and conditioned upon the applicant submitting a revised plat and plans consistent with the modified conditions as follows; This resolution includes modifying condition one to refer to the changes on the site plan last received by the City today and reviewed this evening; modifying condition five to specify that easements would be 20 feet in width and trail easements

would include the locations on the plan presented this evening with one additional trail connecting Morningside southerly to new Deerhill Road and the easement for a future trail connection to the west from the trail proposed between the island and the cul-de-sac in Block 1; modifying condition seven to clarify that the actual right-of-way would be a 60 foot right-of-way and permitting reduction of the front yard setback of the lots permitted by the Conservation Design Ordinance; modifying condition nine to add "easements" to permits and agreements" and "adjacent land owner" to "City of Orono;" modifying condition ten to read that construction traffic will be permitted on those roads as approved by staff and specified in the Development Agreement; modifying condition 18 to require no significant tree removal from the site beyond that contemplated in the detailed plans last submitted to the City; modifying condition 19 to state the conservation easement is also acceptable to the City (noting that the Minnehaha Creek Watershed District is acceptable as the holder); in condition 24 today's date shall be used; modifying condition 28 to state as shown on the plans reviewed by the City Council on August 5th; adding condition 30 to state that revised plans shall demonstrate that all septic sites shall meet the necessary setbacks as required by City Ordinance requirements and to allow up to 25% of the lots to have secondary drainfields in the conserved area if a secondary drainfield cannot be reasonably accommodated on a lot, the secondary septic site within the conserved area is approved by the conservation easement holder; the installations of the secondary drainfield is completed in compliance with all applicable regulations and the installation does not result in significant hardwood tree loss, and modifying condition nine to include the word easements.

Pederson briefly recessed the meeting at 9:08 p.m.

Pederson reconvened the meeting at 9:13 p.m.

Pederson noted that this is the first CD-PUD development the City has considered and therefore the Council and developer have struggled.

Martin stated again the motion that was made prior to the recess.

Moved by Martin, seconded by Pederson, to direct staff to prepare an ordinance rezoning the property to CD-PUD and a resolution granting preliminary plat approval subject to the conditions set forth in the staff report as modified in this resolution and conditioned upon the applicant submitting a revised plat and plans consistent with the modified conditions as follows; This resolution includes modifying condition one to refer to the changes on the site plan last received by the City today and reviewed this evening; modifying condition five to specify that easements would be 20 feet in width and trail easements would include the locations on the plan presented this evening with one additional trail connecting Morningside southerly to new Deerhill Road and the easement for a future trail connection to the west from the trail proposed between the island and the cul-de-sac in Block 1; modifying condition seven to clarify that the actual right-of-way would be a 60 foot right-of-way and permitting reduction of the front yard setback of the lots permitted by the Conservation Design Ordinance; modifying condition nine to add "easements" to permits and agreements" and "adjacent land owner" to "City of Orono;" modifying condition ten to read that construction traffic will be permitted on those roads as approved by staff and specified in the Development Agreement; modifying condition 18 to require no significant tree removal from the site beyond that contemplated in the detailed plans last submitted to the City; modifying condition 19 to state the conservation easement is also acceptable to the City (noting that the

*Minnehaha Creek Watershed District is acceptable as the holder); in condition 24 today's date shall be used; modifying condition 28 to state as shown on the plans reviewed by the City Council on August 5th; adding condition 30 to state that revised plans shall demonstrate that all septic sites shall meet the necessary setbacks as required by City Ordinance requirements and to allow up to 25% of the lots to have secondary drainfields in the conserved area if a secondary drainfield cannot be reasonably accommodated on a lot, the secondary septic site within the conserved area is approved by the conservation easement holder; the installations of the secondary drainfield is completed in compliance with all applicable regulations and the installation does not result in significant hardwood tree loss, and modifying condition nine to include the word easements. **Motion passed 3-1 (Anderson opposed).***

Pederson briefly recessed the meeting at 9:14 p.m.

Mitchell rejoined the Council and reconvened the meeting at 9:16 p.m.

VIII. NEW BUSINESS

A. Ordinance Regarding Setbacks for Decks and Upland Buffers; Amending Chapter 8 of the City Code (9:16 p.m.)

Finke stated that current City regulations require that upland buffers be established adjacent to wetlands upon new development and City regulations require an additional 15-foot setback for structures. He explained that this additional setback is for protection of the wetland buffer, not necessarily the wetlands themselves. He stated that a number of the homes in the Enclave development have a very limited depth which makes it difficult to construct a deck. He advised that a property owner in the Enclave requested that the City consider reducing the setback for decks to five feet, noting that there would still be the wetland buffer between the setback and wetland. He reported that the Planning Commission considered the request and recommended denial of the reduction to five feet. He stated that the Commission also considered a request to reduce the setback to ten feet and recommended denial of that as well. He noted that there was concern with creep that a deck could then be converted to a three or four season porch. He stated that the Commission also felt that if the setback is reduced the homes will be pushed further towards the wetland and the homeowners would then be left in the same position as those in the Enclave. He stated that the Commission spoke specifically about this issue to Lennar when considering that development request.

Pederson asked for additional information regarding the usable space below the deck.

Finke provided additional clarification.

Mitchell stated that three season and four season porches were discussed in Lake Independence and the decks all eventually wound up becoming enclosed.

Pederson asked if the buffers are signed to prevent mowing.

Finke confirmed that the buffer is signed but noted that the setback is not signed. He stated that the easements and setbacks are shown on the surveys for this development.

Cousineau asked if this would apply to flat elevation, such as a walkout.

Finke confirmed that the setback would apply in that case. He stated that patios and gazebos would be allowed if permitted by the homeowners association (HOA).

Martin stated that if the purpose of the setback is to limit impervious surface it would not seem to make sense to allow patios.

Finke stated that the setback is to discourage encroachment in the buffer itself and not specifically for water quality.

Pederson stated that if a patio is allowed he would not see the difference with a deck.

Mitchell stated that a patio is part of the landscaping while a deck could then become covered.

Pederson stated that perhaps language could be added that states uncovered decks.

Finke stated that language is included already.

Martin asked if these homes do not have room to build a deck.

Finke explained that there is some room but it would depend on the proximity of the wetland which can be odd shaped and therefore there are some odd shaped decks.

Mitchell stated that he has sympathy for the homeowners and would like to pause the discussion and obtain additional information, inviting the interested parties to show additional information on the specifics of their property.

Martin stated that she would find that helpful as well. She asked if homeowners could submit a variance request should the Ordinance not be changed.

Finke stated that a variance request could be submitted but the hardship would be difficult to prove.

Cousineau asked if this is specific to the Enclave or whether it is throughout the City.

Finke stated that it would be fairly common for properties near wetlands in many developments.

*Moved by Anderson, seconded by Pederson, to table the Ordinance regarding deck wetland buffer setbacks; amending Chapter 8 of the City Code. **Motion passed unanimously.***

1. ~~Resolution Authorizing Publication of the Ordinance by Title and Summary~~

B. Resolution No. 2015-72 to Contract with a Council Member (Hwy 55 Rental for Medina Celebration Day (9:30 p.m.))

Pederson recused himself from the discussion.

Johnson noted that this is a housekeeping item as the City contracts with Highway 55 Rental for Medina Celebration Day.

*Moved by Anderson, seconded by Martin, to adopt Resolution No. 2015-72 to contract with a Council Member. **Motion passed unanimously.***

Pederson rejoined the Council.

IX. CITY ADMINISTRATOR REPORT (9:31 p.m.)

Johnson stated that the City is close to having an agreement letter in place with Mediacom that should be ready for September 1st and commended Finke for his work on this matter.

X. MAYOR & CITY COUNCIL REPORTS (9:32 p.m.)

Mitchell stated that he was thrilled with the attendance at the picnic the previous week.

XI. APPROVAL TO PAY THE BILLS (9:33 p.m.)

*Moved by Martin, seconded by Pederson, to approve the bills, EFT 003271E-003292E for \$75,424.07, order check numbers 43187-43261 for \$607,654.54, and payroll EFT 506583-506613 for \$47,868.28 and payroll checks 20432-20433 for \$9,208.31. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Anderson, seconded by Pederson, to adjourn the meeting at 9:33 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Scott Johnson, City Administrator