

MEDINA CITY COUNCIL MEETING MINUTES OF SEPTEMBER 4, 2012

The City Council of Medina, Minnesota met in regular session on September 4, 2012 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Pederson, Martinson, Siitari, and Weir.

Members absent: None.

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Planner Dusty Finke, Public Works Superintendent Steve Scherer, City Administrator Scott Johnson, Chief of Police Ed Belland, Finance Director Joe Rigdon, City Prosecutor Steve Tallen, and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

Crosby noted that Commissioner Jeff Johnson will not be attending the meeting tonight, but City Prosecutor Steve Tallen is present to address the Council.

Weir asked that the comments portion of the agenda occur prior to the presentation from Mr. Tallen.

*Moved by Weir, seconded by Pederson, to approve the agenda as amended. **Motion passed unanimously.***

IV. APPROVAL OF MINUTES

A. Approval of the August 21, 2012 Special City Council Meeting Minutes

*Moved by Siitari, seconded by Pederson, to approve the August 21, 2012 special City Council meeting minutes as presented. **Motion passed unanimously.***

B. Approval of the August 21, 2012 Regular City Council Meeting Minutes

It was noted on page two, line 16, it should state, "...agreement would be in place recorded in public records..." On page six, line 37, it should state, "...venue avenue..."

*Moved by Martinson, seconded by Siitari, to approve the August 21, 2012 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

A. Approve Amendment to 99.20 Travel Policy

B. Approve Lake Minnetonka Communication Commission Budget for 2013

C. Appoint Dino DesLauriers to the Medina Park Commission

D. Call for Special Meeting on Wednesday, November 14, 2012 at 6:00 p.m.

E. Resolution No. 2012-51 Accepting Donation from Long Lake Glass

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

A. Approve Amendment to 99.20 Travel Policy

Crosby questioned the model for this policy and asked Siitari if the proposed policy is similar to others he has seen.

Johnson noted that this policy was approved as of January 17, 2012 by the Council and is similar to others used in the Metro area. He advised that the only change to the policy would be on page two.

Siitari commented that the policy is much more comprehensive than he has seen but essentially contains the same information.

*Moved by Weir, seconded by Martinson, to approve the amendment to 99.20 travel policy. **Motion passed unanimously.***

VI. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Park Commissioner Benson reported that the last meeting of the Park Commission took place on August 15th and most of the discussion centered on the Master Plan. He also welcomed the newly appointed member of the Park Commission.

C. Planning Commission

Finke noted that the Planning Commission would meet the following week to further discuss wind turbines.

VII. PRESENTATION

A. Comments from Steve Tallen

Tallen provided background information on an ongoing case that he previously brought before the Council regarding a resident driving a Segway under the influence of alcohol. He discussed the Brown Case, reviewed in June of 2011, regarding someone using a motorized wheelchair while under the influence of alcohol and was found not guilty of DUI because the man was confined to a wheelchair. He stated that this case involving the Segway involves three instances in which the man was driving his Segway while intoxicated, blowing close to .20 on the breathalyzer. He explained that the judge did not rule in favor of the City, citing the Brown case as precedent. He noted that he believes this case to be quite different than the Brown case and questioned if the Council would like to appeal the ruling.

Crosby questioned if Belland believes that the man is a safety risk to himself or others.

Belland explained that the man was driving his Segway on the wrong side of the road and another vehicle was coming towards him. He believed that this issue could be a safety concern for both the man and other drivers.

Tallen agreed that this behavior would be a risk to the man and others.

Crosby questioned the cost to the City to appeal the decision.

Tallen explained that the City would be responsible for the cost of both lawyers. He estimated that his costs would range near \$2,000. He believed that the cost of the attorney fees for the other party could be limited to \$5,000 under new legislation, but was unsure of the exact amount. He confirmed that this same person is accused of a felony under Hennepin County for the same behavior. He believed that the man has a history of six or seven cases with only two convictions.

Martinson questioned the chances that the man would be convicted from Hennepin County, which would take him off the roads in Medina.

Weir questioned if the behavior took place at night or during the day.

Belland confirmed that the man was driving his Segway in the middle of the road at night, following bar close.

Crosby stated that he would view this not so much as a punishment, but an opportunity to straighten out a bad application of the law.

Siitari questioned the odds that a new judge would overrule that judge.

Tallen stated that both the cases he appealed from this judge were overruled, but noted that does not set expectations for the future.

Siitari questioned if the past history would be admissible.

Tallen stated that most likely not, unless there was a conviction. He stated that this is not simply a matter of punishing this man, but straightening out the original ruling to set the precedent for the future.

Crosby stated that most of the case law, which changes laws, occurs on the appellate level and not the District Court level.

Belland questioned how this judgment would affect the case on the County level.

Tallen stated that the cases could be reviewed, but would not necessarily have an impact on that case. He noted that if the court again rules that it is okay for someone to drive their Segway drunk down the middle of the road, the City should know and stop arresting people for that action. He explained that the defendant in this case is not confined to the Segway, compared to the man in the Brown case that was confined to the wheelchair.

Crosby noted that this action could have a cost of around \$8,000 and questioned the action the Council would like to take.

Weir confirmed that this resident is most likely going to do this again if the City does not take action.

Belland confirmed that if the Council chooses not to appeal, the resident will believe that it is okay to continue to drive the Segway drunk down the roads of Medina. He noted

that there is a prosecution cost budgeted for the department and believed that the case would fit within that budget.

*Moved by Weir, seconded by Siitari, to authorize City Prosecutor Steve Tallen to appeal the case involving the drunken driving of a Segway. **Motion passed unanimously.***

Crosby asked that Tallen report back to the Council if the cost is going to rise past \$7,500, or if there are developments in the case.

Tallen confirmed that he would. He also noted that he will contact the County Attorney's office, as well as the Attorney General, to determine if they would like to include their input on the case.

VIII. NEW BUSINESS

A. Ehlers Pre-Sale Reports – Discussion on Bonding Options

Johnson stated that Shelly Eldridge, with Ehlers and Associates, is present to discuss the bonding items with the Council regarding the proposed Public Works and Police Project.

Shelly Eldridge noted that a presale report was included in the Council packet and outlines the major points of the bond. She advised that there were two options reviewed for bonding, \$6,100,000 or \$4,475,000, depending on whether the police portion of the project is included. She noted that the action tonight will also include the re-characterization of \$1,400,000 in water bonds. She summarized the bonding information noting that funding sources would include property taxes and advising that 20 percent of the funding would come from utility funds.

Crosby confirmed that the police portion of the project would not qualify for the 20 percent reduction as utility funds could not be used to offset improvements for that department.

Eldridge provided additional information on the bonds. She estimated that the City would qualify for an Aa3 rating. She confirmed that Ehlers could ask if a higher rating could be obtained, but noted that there have not been many upgrades in the current economy.

Johnson questioned if there would be an advantage to using a company separate from Moody's to obtain a rating.

Eldridge noted that Standard and Poors is another company used for Minnesota communities to obtain ratings. She cautioned the company is reviewing their methods for rating and was unsure how that system will apply to the City. She reviewed the time schedule for the future, noting that the closing date would occur the second week in November. She then reviewed the specific financial information regarding the debt services and bonding, including estimated interest rates and levy increases for both cost options for the project as well as the re-characterization of the water bonds.

Crosby noted the difference in the interest rates between the lower rate for the new bonds and the higher rate for the 2007 recharacterized water bonds.

Eldridge noted that Ehlers would review the information again in the spring, once the water bonds are spent, to determine if a better rate could be obtained. She then provided information on the wraparound option, which would structure the new bonds, along with the water bonds, to create a more constant payment.

Crosby questioned what is more commonly done in this instance.

Eldridge explained that the difference in the interest cost would be about \$300,000, with the additional cost as a result of the wraparound option. She confirmed that the benefit would be to have a lower and more constant payment amount.

Crosby confirmed that the impact to the average household in Medina would be about \$30 less using the wraparound option. He commented that it could be beneficial to lessen the impact to residents now, using the refund and wraparound options.

Rigdon stated that the refunding will not have an impact. He stated that the stand-alone option would pay the debt more quickly and noted that the wraparound option would lessen the impact to residents.

Eldridge confirmed that she has seen both options used in the Metro area and explained that it is simply a policy issue of whether the City would like to pay the debt more quickly or to lessen the impact to residents. She confirmed that whichever option the City chooses will not impact the bond rating of the City. She also confirmed that the bonds could be refinanced in 2015.

Johnson confirmed that the wraparound option would not affect the CIP.

Crosby confirmed that the estimated interest rates of 2.45 percent are most likely the lowest the City would obtain.

Eldridge confirmed that the estimated interest rate is at the low end of the trend.

Crosby stated that he would like to continue the information regarding the bonds and then discuss the next two agenda items, coming back to this item to make the decisions.

Eldridge provided additional information on the advance refunding options, and discussed the estimated cost savings and cash flow savings.

Crosby stated that the only reason not to do the advance refunding would be if the City believed that a lower interest rate could be obtained.

Eldridge recommended that the City take advantage of the low interest rates with the advance refunding. She confirmed that there has been a lot of refunding activity.

Crosby paused the discussion to continue later in the meeting.

B. Hamel Legion Park Ball Field Improvements

Johnson stated that there are four improvements identified for the Hamel Legion Park, noting that Hamel Athletic Club (HAC) is willing to pay 100 percent of the cost for the first two options. He explained that there is a City policy specifying that the City could pay 25 percent of the irrigation costs.

Scherer stated that he would not feel comfortable with the City paying towards the irrigation costs, as HAC is willing to pay for those improvements.

Kevin MacIntosh, HAC stated that he brought a check with him to pay for all of the improvements proposed tonight. He stated that while he would welcome a contribution from the City, the HAC is prepared to pay for the improvements.

Park Commissioner Benson provided additional information on the irrigation policy specifying 25 percent for grant centered projects. He noted that the Park Commission supports the improvements with HAC paying for 100 percent of the cost.

Crosby questioned when the work would take place.

Johnson confirmed the work would start this fall.

Scherer questioned if the HAC would be responsible for any cost overruns that could occur.

Johnson confirmed that the only portion of the project the City would provide labor for would be the scoreboard posts.

MacIntosh confirmed that he was advised that the HAC would attempt to avoid cost overruns but would cover those expenses if they occur.

Crosby stated that it appears to be a generous improvement and contribution to the park.

Scherer addressed the issue of the lights for the ball field and urged that the item remain a focus for the next year. He believed it would be best if the lights were installed prior to the homes being constructed to avoid complaints in the future.

1. **Ball Field Improvements Services Agreement; and**
2. **Resolution No. 2012-57 Accepting Donation from Hamel Athletic Club**

*Moved by Martinson, seconded by Pederson, to approve the Ball Field Improvements Services Agreement with Sam's Lawn Landscaping & Property Maintenance and approve the Resolution No. 2012-57 accepting donation from the Hamel Athletic Club. **Motion passed unanimously.***

C. Resolution No. 2012-58 of Support for Hennepin Youth Sports Grant Application

Johnson explained that the City applied for this grant in 2011 and is now reapplying for the grant, which could then be applied to the lighting and possibly other improvements.

*Moved by Weir, seconded by Siitari, to approve Resolution No. 2012-58 of Local Government Unit Authorizing Filing of Application and Execution of Agreement to Develop a Sport Facility by Creating New Opportunities through Ball Field Improvements Under the Provisions of the Hennepin Youth Sports Program. **Motion passed unanimously.***

D. 2013 Preliminary Budget and Tax Levy

Crosby stated that the first decision to be made is whether to include the police department in the public works project.

Weir commented that she believed that the City should take advantage of the low interest rates and complete the whole project at one time, rather than going back to the public in the future for the police portion of the project.

Siitari stated that it was helpful to see the numbers and agreed that because of the small difference, the whole project should be completed.

Martinson and Crosby also agreed that it would be beneficial to move forward with the public works and police project as a whole.

Johnson provided a brief overview of the 2013 budget process and identified the major budget issues for 2012, noting that the purchase of the Clam Corp purchase was a large impact. He reviewed the proposed budget changes from the 2012 budget and discussed the proposed tax levy. He briefly identified long-term needs of the City including roads, fire, public works/police facility, and equipment replacement. He noted that the Financial Management Plan would be updated following the actions tonight. He provided tax rate comparisons, noting that Medina has the second lowest levy rate out of the eight surrounding communities.

Rigdon provided figures specific to the bonding information for the public works/police facility for both the standalone and wraparound options. He stated that he would prefer to keep the more conservative figures in the preliminary levy, as that amount could be lowered at a later date if needed.

1. Resolution No. 2012-54 Approving 2013 Preliminary Tax Levy

*Moved by Siitari, seconded by Martinson, to adopt Resolution No. 2012-54 approving the 2013 preliminary tax levy. **Motion passed unanimously.***

Crosby confirmed that this amount must be certified to Hennepin County no later than September 15, 2012.

2. Resolution No. 2012-55 Approving 2013 Preliminary General Fund Budget

*Moved by Siitari, seconded by Pederson, to adopt Resolution No. 2012-55 approving the 2013 preliminary general fund budget. **Motion passed unanimously.***

3. Resolution No. 2012-56 Reducing Debt Service Tax Levies for 2013

*Moved by Siitari, seconded by Martinson, to adopt Resolution No. 2012-56 reducing the debt service tax levies for 2013. **Motion passed unanimously.***

4. Establish Public Discussion Date for Final 2013 Tax Levy and Budget

*Moved by Siitari, seconded by Weir, to establish the 2013 final tax levy and budget discussion for December 4, 2012 at 7:00 p.m. in City Hall. **Motion passed unanimously.***

Crosby briefly recessed the meeting at 8:58 p.m.

Crosby reconvened the meeting at 9:05 p.m.

A. Ehlers Pre-Sale Reports – Discussion on Bonding Options (Continued)

1. Resolution No. 2012-52 Providing for the Sale of Approximately \$6,100,000 Obligation Capital Improvement Plan Bonds, Series 2012A

*Moved by Siitari, seconded by Weir, to approve Resolution No. 2012-52 providing for the sale of approximately \$6,100,000 General Obligation Capital Improvement Plan Bonds, Series 2012A for the Public Works and Police Project. **Motion passed unanimously.***

2. Motion providing for the Re-Characterization of \$1,400,000 2007 Water Bonds to CIP Bonds, assuming current interest rates

*Moved by Siitari, seconded by Weir, to approve the re-characterization of \$1,400,000 2007 Water Bonds to CIP Bonds, assuming current interest rates. **Motion passed unanimously.***

3. Resolution No. 2012-53 Providing for the Sale of \$2,930,000 General Obligation Refunding Bonds, Series 2012B – Refunding of the 2005C and an Advance Refunding of 2005A Bonds, Series 2012B

*Moved by Siitari, seconded by Martinson, to approve Resolution No. 2012-53 providing for the sale of \$2,930,000 General Obligation Refunding Bonds, Series 2012B - refunding of the 2005C Bonds and an advanced refunding of 2005A Bonds to series 2012B. **Motion passed unanimously.***

Crosby confirmed that the decision whether or not to use the wraparound method should also be made at this time.

*Moved by Siitari, seconded by Weir, to adopt the wraparound option for the bond financing. **Motion passed 4-1.** (Martinson opposed)*

E. Ordinance No. 535 Amending Section 815 of the Code of Ordinances Regarding Signs

Finke stated that this item has been brought before the Council and Planning Commission a number of times. He explained that originally this item was brought forward through a request for off premise signage and has evolved into a comprehensive rewrite of the Ordinance. He stated that an option for off premise signage, which included bonus space, was included in the packet but noted that the Planning Commission unanimously opposed that option.

Crosby confirmed that a business could choose to sell their unused signage space but noted that he did not support bonus space because it would provide an additional revenue opportunity to those selling sign space to off premises sites

Finke addressed the proposed changes to the “brightness” standard of dynamic portions of signs, such as electronic message portion of the sign.

Weir questioned if the allowable NITs should be reduced when the dynamic sign faces a residential property.

Finke stated that some cities limit dynamic signs, or message signs, when the business is adjacent to residential properties. He provided additional information on the test conducted and did not believe that 500 NITs would be offensive to a residential property.

Crosby stated that would be an issue of zoning, noting that if a mixed use area neighbors a commercial area, those residents know what they are buying into. He believed that the City will see a lot of dynamic signs moving forward in areas where commercial development is still to come near residential area.

Pederson questioned if the new Ordinance would apply to existing signs.

Finke noted that those signs would become nonconforming status and could remain, but could not be expanded upon. He stated that the more specific regulations would only apply to the dynamic signs. He moved to the issue of LED light bands, which have been installed throughout the City, noting that staff researched the issue and determined that signage is moving towards LED as a light source. He stated that staff was not able to develop alternatives with the consultant at this time and suggested that the City continue to work with the regulations for enforcement currently in place. He advised that staff has begun enforcement regulations with the businesses identified in the last year. He commented that some larger cities are beginning to delve into this issue and believed that staff would be able to share information with those cities once their research is complete.

Weir confirmed that the sign Ordinance may continue to evolve in the future as this information becomes available.

Finke provided additional information regarding illumination standards.

Crosby confirmed that if these Ordinance amendments are approved, the Holiday sign would have to prove that they were legally in compliance with the original Ordinance and then could be considered legal nonconforming status. He asked for clarification regarding signs on a roof, awning, and windows.

Finke noted that although a permit is not required for the changing of window signage, there is a limit of signage to one window and no more than 50 percent of that window can contain signage. He advised that this regulation currently exists and was simply moved within the Ordinance.

Crosby expressed concern with trucks or vans that are parked along the roadway advertising.

Finke noted that truck signs are, and have been, illegal per the Ordinance.

Crosby believed that this would be a good time to address the offenders and give them a period of time to come into compliance with the Ordinance.

Weir addressed the timing of electronic signs and confirmed the time limit of 60 seconds.

Pederson stated that he would favor a time of 30 seconds.

Crosby stated that in his mind changing billboards and changing message signs used by businesses, such as Menards, are different.

Finke noted that the Ordinance does not view those signs as different. He confirmed that the recommendation of the Planning Commission is to approve the amendments to the Ordinance as proposed.

Michael Cronin, 8809 West Bush Lake Road, Minneapolis, stated that he is present in representation of Holiday Station Stores and advised that he supports the recommendations of the Planning Commission. He thanked staff and the Planning Commission for their efforts on this Ordinance.

*Moved by Weir, seconded by Siitari, to approve Ordinance No. 535 amending Chapter 8 of the Code of Ordinances Regarding Signs. **Motion passed unanimously.***

1. **Resolution No. 2012-59 Authorizing Publication of Ordinance by Title and Summary**

*Moved by Siitari, seconded by Weir, to approve Resolution No. 2012-59 authorizing publication of the Ordinance by title and summary. **Motion passed unanimously.***

IX. CITY ADMINISTRATOR REPORT

A. Chief Belland's FBI Academy Training

Johnson stated that Belland has been accepted to the FBI Training Academy, which takes place this winter. He estimated the total cost to be \$2,390, which would be similar to the cost of the International Chiefs of Police Conference (\$2,500) that Belland normally attends.

Siitari stated that he has participated in the event in the past and believed it to be a very worthwhile program. He commented that staff should review this in comparison to the travel policy in regard to weekend meals and networking events.

Crosby stated that language could be included stating that a per diem would be offered to the extent that it is not offered as a part of the package. He stated that the details could be worked out between Belland and Johnson.

Belland stated that this has been a three year process to be nominated and accepted. He stated that he is grateful for the opportunity to attend.

Johnson noted that the grand opening of Dover Saddlery will occur on Saturday, September 7th at 9:00 a.m.

X. MAYOR & CITY COUNCIL REPORTS

Weir stated that she spoke with Finke about the increasing outside storage at Loram and Finke has addressed the issue with the business.

Crosby stated that he received a call from a resident living in Tuckborough regarding the Xcel power poles.

Scherer stated that he did address the issue and the cost to bury the line would be much higher. He noted that the resident whose property abuts that power pole does not

oppose the issue. He advised that Xcel would be willing to bury lines in the future, if the City Ordinance specifies as much, but advised that the cost would become an increase on the bill for the residents.

Crosby asked that further information be gathered on the cost.

XI. APPROVAL TO PAY THE BILLS

Moved by Weir, seconded by Pederson, to approve the bills, EFT 001760E-001774E for \$36,075.16, and order check numbers 038723-038772 for \$99,401.63, and payroll EFT 504445-504469 for \$43,352.25 and payroll check number 020370 for \$2,609.77.

Motion passed unanimously.

XII. ADJOURN

*Moved by Weir, seconded by Martinson, to adjourn the meeting at 10:00 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Scott Johnson, City Administrator