

MEDINA CITY COUNCIL MEETING MINUTES OF OCTOBER 20, 2009

The City Council of Medina, Minnesota met in regular session on October 20, 2009 at 7:00 p.m. in the City Hall Chambers. Mayor Crosby presided.

I. ROLL CALL

Members present: Crosby, Johnson, Siitari, and Weir.

Members absent: Smith

Also present: City Attorney Ron Batty, City Engineer Tom Kellogg, Police Sergeant Jason Nelson, City Planner Dusty Finke, Public Works Superintendent Steve Scherer, Finance Director Jeanne Day, City Administrator Chad Adams and Recording Secretary Amanda Staple.

II. PLEDGE OF ALLEGIANCE

III. ADDITIONS TO THE AGENDA

The agenda was accepted as presented.

IV. APPROVAL OF MINUTES

A. Approval of the October 6, 2009 Regular City Council Meeting Minutes

It was noted on page three, line 46, it should state: "~~...homeowner~~ lot owner." On page five, line three, it should state, "...landscaping, which might restrict events such as Medina Celebration Day." On page five, line 42, it should state, "...tabled pending determination of the standard from which the 60 pounds must be removed." On page six, line 11, it should state, "...two properties, i.e. the "so called" water tower property and the property east of Willow Drive and south of the railroad tracks." On page seven, line 18, it should state, "...expansion, and when should enforcement commence; prospectively, or as of some past date."

*Moved by Weir, seconded by Siitari, to approve the October 6, 2009 Regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA

A. Accept Donations to Medina Celebration Day

B. Accept Donations from United Properties for Sign Monument Base

C. Accept Donation from Residential Mortgage Group for Police Fingerprinting/Child ID Program

D. Accept Donation from Clover Patch 4H Club for Trees

E. Approve Snowplowing Services Agreement with Designing Nature, Inc.

F. Approve Snowplowing/Ice Control Policy

G. Lift Probationary Status and Approve Pay Increase for City Planner Dusty Finke

H. ~~Resolution Certifying Delinquent Water, Sewer and Storm Water Charges to the Hennepin County Auditor for Collection in 2010~~

I. **Resolution of Local Government Unit Authorizing Filing of Application and Execution of Agreement to Develop a Sport Facility Under the Provisions of the Hennepin Youth Sports Program**

Weir asked to remove item H (Resolution Certifying Delinquent Water, Sewer and Storm Water Charges to the Hennepin County Auditor for Collection in 2010) from the consent agenda.

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

H. **Resolution Certifying Delinquent Water, Sewer and Storm Water Charges to the Hennepin County Auditor for Collection in 2010**

Weir was concerned that the City would be asking Hennepin County and the State for delinquent funds. She questioned if contact had been made and if there was a plan for payment from those entities.

City Administrator Adams advised that City staff had been working with the Minnesota Pollution Control Agency regarding the landfill property for the past year in attempt to collect the delinquent funds. He stated that staff recently received communication from Hennepin County as to why the County is not paying the storm sewer fees but City Staff still needs to respond.

Crosby questioned if the delinquent payers were refusing to pay or were not able to pay.

Finance Director Day advised that the amount of residents was pretty equally split between those that would rather certify the amount with their property taxes and those that were not able to pay.

*Moved by Weir, seconded by Siitari, to approve a resolution certifying delinquent water, sewer, and storm water charges to the Hennepin County Auditor for collection in 2010. **Motion passed unanimously.***

VI. **PRESENTATION**

A. **Dave Thill, Hennepin County Environmental Services**

Dave Thill, Hennepin County Environmental Services, displayed an aerial picture of the Tomann property and discussed a possible management plan for the property. He stated that by the end of the year an outline of the management plan would be put together for the City and the Minnesota Land Trust to review.

Crosby confirmed that Mr. Tomann has offered the property to the City but the City has not accepted.

Thill advised that the Minnesota Land Trust currently owns an easement on the property and explained that ownership of the property would eventually go to the City. He confirmed that maintenance of the property would then become the responsibility of the City. He stated that he would like to continue to work on the project with the City in the future and discussed possible options for the property. He advised that the property owner continues to work on the property and to improve the trees and landscaping. He stated that he had planned to discuss the Hidden Lake property but advised that the property had recently been purchased and the closing would occur on Friday. He stated

that he would attempt to discuss the possibility of an easement with the new property owner. He advised that in future property acquisition it is always helpful to have the support of the City, which may include a ten percent match.

VII. COMMENTS

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Park Commissioner Paul Jaeb stated that the Commission had not met since the last Council meeting; but advised that the Commission would review the proposed park signs at their next meeting.

C. Planning Commission

Planning Commissioner Robin Reid stated that during the October meeting two public hearings were held, one in regard to an ordinance amending the mixed use zoning district and the other in regard to the concept plan review procedure, and briefly summarized the thoughts of the Planning Commission. She stated that the Commission directed staff to make changes to the proposed ordinance for the mixed use zoning district and would review the ordinance again at their November meeting.

Crosby questioned how much third party input, and additional cost, would be required in regard to the concept plan process.

Reid stated that staff was going to further review that item and that the Commission did not go into detail of third party costs during their discussion.

VIII. OLD BUSINESS

A. Work Plan for Manure and Pasture Management Services

Adams reported that the City has an open grant with the Minnehaha Creek Watershed District that staff would like to finish within the next year. He advised that Betsy Wieland was present at the meeting to present the management plan and respond to any questions. He reported that Wieland has worked with the City on previous projects of this nature with the University of Minnesota Extension Service.

Betsy Wieland, University of Minnesota Extension Service, stated that her supervisor stated that they were still reviewing the contract options at this point. She advised that she had not done a comparable survey within any of the surrounding communities and would actually like to use this study as a pilot for others within the County.

Weir questioned how active Wieland has been with horse owners, manure issues, and whether or not she knew all the horse owners within the City.

Wieland stated that she did not know all of the horse owners within the City and would be open to City suggestion in regard to the method for locating that information. She advised that she had made contact with some of the horse owners within the City. She stated that she has worked with this subject for the last five years with the University of Minnesota Extension Service and prior to that with another organization.

Crosby stated that he believed that City staff could help by contributing information in regard to horse owners within the City.

*Moved by Weir, seconded by Siitari, to direct staff to prepare a services agreement with the University of Minnesota Extension Service. **Motion passed unanimously.***

E. Ordinance Related to the Regulations of the Business Park Zoning District and Creating the Business Zoning District; Amending Section 832 and Adding New Sections 832.1, 832.2, and 832.3

City Planner Finke stated that the intention for tonight would be for the Council to review, and come to consensus, on some of the prior discussion items. He briefly summarized the discussion that occurred at the October 6th Council meeting. He reviewed the business-to-business setback information and explained how incentives could be used in regard to shared amenities. He discussed the option of listing the types of businesses that would be allowed within the zoning district, or use of more general language, with the Council ultimately in favor of the more generalized language. He then reviewed the three main requirements in regard to loading docks and advised of changes that staff had proposed. He stated that after receiving the input of the Council tonight staff would attempt to make the actual changes to the ordinance and suggested that the Council review the proposed ordinance page by page.

Weir suggested adding language to the purpose statement, and condition five, on page one, "to protect the natural environment". She questioned if certain uses would be acceptable within the business park zoning district, such as a transit stop or accessory building.

Crosby advised that a light rail station could be considered an accessory building.

Weir questioned if the City was in favor of continuing to allow interim uses within the zoning district.

Crosby stated that there were two interim uses within the zoning district and he did not have a problem with those buildings becoming non-conforming, as removing the statement would ensure that additional businesses of that nature would not be able to enter the zoning district.

Finke moved on to the issue of setbacks from residential and advised that the Council had more than one discussion regarding this item previously. It was the consensus to use a standard of 100 feet for setbacks with a minimum amount of 75 feet with increased landscaping for screening.

Weir stated that she noticed a local business had seven or eight trailers outside of the building and thought that while the City should allow some flexibility, specific conditions should be listed in regard to screening and other items.

Finke advised that some businesses constantly have trailers outside waiting to be unloaded, and although the trailers themselves rotate there most likely would always be five trailers outside of that property. It was the consensus to have specific language in regard to vehicle storage and outside storage.

Weir questioned if wind energy should be included on page eight.

Crosby stated that there is an ordinance for wind energy already and did not believe that spelling out additional requirements for each district would be necessary. He stated that he thought wind energy should be allowed within a zoning district if the requirements for the CUP could be met.

Weir discussed possible lot size within the zoning district. It was consensus for the minimum lot size to be three acres for stand alone properties and two acres for integrated properties.

Johnson suggested adding language regarding distributed generation of renewable energy sources and communication towers.

Crosby stated that he believed that a definition for modulation should be included with the ordinance.

Weir suggested a language change in regard to landscaping, which would encourage low water grasses rather than just sod.

Johnson stated that he did not notice any information regarding outside lighting.

Finke reported that the City has a separate ordinance for lighting and explained that if the Council wishes to be more restrictive than the original ordinance, requirements could be added to the ordinance.

Crosby opened the floor for public comment.

Rose Lorsung, applicant for the text amendment to the ordinance, thanked staff, the Planning Commission, and the City Council for their time and effort thoroughly reviewing the zoning district. She stated that due to the proximity of the water tower property to the residential zone it would most likely be considered part of the business park district over the business zoning district. She discussed setbacks and actual locations of homes for rural residential properties in relation to the business park district. She also discussed building height, low impact development, and noise issues regarding the business park zoning district.

Crosby stated that the comments made by Lorsung were quite general and questioned what the applicant would ultimately desire in regard to the three issues she discussed.

Lorsung reported that in regard to setbacks the applicant would like incentives, which would provide a reduction in the setback, in return for additional screening that would ensure adjacent homes were not disturbed. She advised for building height the applicant would like to see an allowed height of 45 feet within the business park zoning district with earth shelter design built into the slope of the hill. She also suggested incentives for low impact development (LID) as there is an increased cost for LID and the ordinance currently does not incentivize low impact development. She questioned how a property would be subdivided.

Finke explained the rezoning process and how the subdivision of a property could take place.

Ryan Kuhlman, on behalf of Richard Burke, stated that his client already submitted a letter with his concerns regarding this matter. He stated that he would like to further address lot size and hardcover. He stated that Medina has a rural uniqueness that neighboring communities do not possess and wanted to ensure that the City keeps that uniqueness. He stated that his client would like to reduce the minimum lot size conservatively from five acres to ensure that a sufficient buffer is provided and to differentiate the business park zoning district from the business zoning district. He advised that his client was also concerned with run-off onto his property due to the increased hardcover being allowed within the district. He stated that if 80 percent hardcover is allowed he believed that it is no longer a business park district and could turn the City into a non-rural setting.

Gary Roller, Manager of Richard Burke's property as of 1991, stated that he would like to speak in regard to water run-off and the water tower property. He stated that water quality is an important issue locally and nationally and advised that there are two stations set-up for water quality monitoring in that area due to existing problems. He spoke specifically about the area in regard to water quality and run-off problems.

Adams stated that per the City's Local Surface Water Management Plan, that new developments will be required to reduce phosphorous loading by at least 20% than current loading amounts on the property, which will improve water quality.

City Engineer Kellogg concurred with Adams and stated he believed the requirements needed for a developed area are much stricter and that the run-off that would be generated would most likely be higher quality than that from an undeveloped lot.

Finke stated that staff would review the input received tonight and would craft the proposed ordinance, which the Council would review in November.

Crosby briefly recessed the meeting at 9:42 p.m.

Crosby reconvened the meeting at 9:47 p.m.

B. Deferred Assessments

Adams provided brief background information for the item and advised that the Council had previously discussed deferred assessments during a Special session.

Day provided a presentation and summarized information in regard to deferred assessments, along with the deferred assessment process, and the issuance of a lien. She explained the history of the interest calculation, which included an inconsistency between 1989 and 2005 regarding simple and compound interest. She advised that a special assessment policy was developed in 2009 that stated interest would be compounded for deferred assessments. She displayed a letter from 1989 from the City to a homeowner that stated interest would be calculated on a compounded basis. She stated that previous City minutes state that interest would be accrued and did not specify simple or compound, prior to pay-off or deferment. She advised that the County and financial institutions compute compounded interest. She then provided additional accounting information, including a statement from the Auditor that states accrued interest is compounded. She then displayed a list of the deferred assessments. She advised that two residents have inquired to pay their assessments, one of whom is

saying that they forgot, or did not know about the assessment, and the other saying that they knew about the assessment but would like to pay within a three year window.

Johnson confirmed that 32 assessments have been paid based on a compounded basis and 15 assessments were paid on a simple interest basis.

Day stated that staff is looking for Council direction on whether to continue with the compounded interest, change the assessment to a simple interest basis, or allow for a "payment window".

Crosby stated that he has constructed a draft proposal for this issue and suggested that the Council review his concept.

Johnson confirmed that the draft letter from Crosby stated that the City would be offering the remaining deferred assessments to be paid on a simple interest basis if the assessment was paid off.

Crosby stated that there has been no notification to remind the property owners of the deferred assessment, although notification from the City is not required.

Johnson questioned how a resident would originally apply for a deferred assessment.

Day stated that the resident would have been notified of the assessment at the original time of a project and would have chosen whether or not to pay that assessment, and those not paid would have been deferred.

Batty stated that he thought it was important to keep in mind that there are two types of deferments, one being green acres and the other being one that the City can offer to residents during a project. He advised that he has written most of the resolutions for the past 25 years and stated that legally accrued interest is understood to be compounded.

Day advised that the League of Minnesota Cities agreed that accrued interest is assumed to be compounded. She confirmed that the assessment policy that was adopted earlier this year specifically noted compound interest.

Johnson confirmed that if this offer was made to the residents it should only be made as a one-time offer.

Day stated that she sent out 24 letters in regard to this issue and she only received six calls. She advised some residents know that this is their responsibility and just choose not to pay the assessment at this time, which is their right. She stated that some of the residents that claimed they were not aware of the deferred assessment were actually quoted in the minutes at the original assessment hearing. She advised that of the calls she received the callers were not disputing the method of interest calculated.

Johnson questioned how many residents were not originally aware of the assessment.

Day advised that she believed all of the residents were aware of the assessment at the original time. She explained that each year a resident must reapply for a deferred green acre status and so the resident would have been reminded yearly and maybe just did not put the whole picture together.

Johnson stated that the City already picks up the bill in regard to green acres, allowing the resident to benefit from the green acres program. He summarized that the City then has already picked up the cost for this once and would then be asked to pick up the cost again in changing the interest to simple calculation of interest.

Day stated the recommendation from staff is to continue with the current method of compound interest and not to make any changes at this time. She confirmed that properties within green acres are allowed to pay property taxes at a reduced rate. She displayed an example where the property owner pays their property tax based on a home valuation of \$177,000 when the property is actually valued at more than \$2,000,000.

Johnson stated that he felt that the green acres properties already receive benefit from the program and should be liable for the total assessment with interest.

Siitari stated that he also believes that ignorance is no excuse and that the properties should be liable for the full amount.

*Moved by Johnson, seconded by Siitari, to approve continuing to compound interest, specify that accrued interest is defined as compounded interest, and not to adjust the totals of the deferred assessments. **Motion failed.** (2-2 vote, opposed Crosby and Weir.)*

Adams advised that a majority vote would be needed for a motion to pass. He explained that although the motion failed it would mean that the current method of compounding interest would continue and that the deferred assessment balances would not be adjusted.

C. Uptown Hamel Monument Sign

Adams reported that only the Uptown Hamel portion of the sign would be lit and that a discount was received for that change. He advised that the project would be funded through the TIF 1-9 District.

Crosby stated that although he would not ultimately be in favor of a sign with a cost this high but explained that he would in fact vote in favor of the sign to end the long process.

Siitari questioned if the \$25,000 sign was going to draw a sufficient amount of traffic into the area to support this amenity.

Johnson stated that he believed that the sign would ultimately add value to the area.

*Moved by Weir, seconded by Johnson, to approve the sign purchase and installation services agreement in the amount of \$25,473 with Central States Sign and Awning, with funding from the City's TIF 1-9 District, and supporting the findings for sign height as referenced in the City staff report. **Motion passed.** (3-1 vote, opposed Siitari.)*

D. Ordinance Amending Section 625 of the Code of Ordinances Regarding Alcoholic Beverage Licenses

Adams summarized the proposed changes to the ordinance.

Batty explained proposed changes in regard to golf courses and State statute.

*Moved by Weir, seconded by Johnson, to approve the ordinance regarding alcoholic beverage licenses with the recommended changes. **Motion passed unanimously.***

1. Resolution to Publish the Ordinance by Title and Summary

*Moved by Weir, seconded by Johnson, to approve the resolution authorizing publication of the ordinance by title and summary. **Motion passed unanimously.***

E. Ordinance Related to the Regulations of the Business Park Zoning District and Creating the Business Zoning District; Amending Section 832 and Adding New Sections 832.1, 832.2, and 832.3

IX. NEW BUSINESS

A. Agreement for Police Services Provided to City of Loretto

Adams advised that technical changes to language would be further clarified by Staff in regard to items, such as base compensation and termination.

*Moved by Johnson, seconded by Weir, to approve the agreement for Police Services to the City of Loretto, subject to technical changes to be made by Staff. **Motion passed unanimously.***

X. CITY ADMINISTRATOR REPORT

A. Quarterly Budget Report

Day stated that the report looked good through the year. She pointed out that the significant savings had been gained to offset the decreased revenue mainly due to staff vacancies and decisions to not backfill those positions, and savings of legal and engineering costs.

B. Fund Balance Policy – General Fund

Day explained the fund balance policy and the need for such policy. She advised that without a policy in place to ensure that the fund balance remains at an adequate level the City could need to levy to reach the balance.

Discussion was held on clarifying the language in the opening sentence of the policy statement to use “greater than” instead of “combination of.”

*Moved by Weir, seconded by Siitari, to approve the Fund Balance Policy for the General Fund with the revision. **Motion passed unanimously.***

C. 2007 Water Revenue Bonds

*Moved by Johnson, seconded by Weir, to authorize staff to expend bond proceeds for the debt service payments and not process the budgetary transfer to cover the debt service payment until bond proceeds are exhausted or construction commences. **Motion passed unanimously.***

D. Environmental Fund Use

Adams stated the practice to use the fund has changed in past years and questioned if the Council desired to make any additional changes to the proposed policy.

Weir stated that she felt some of the funds from the account were being used for more maintenance type issues, such as tree cutting, and thought the account should instead be used for grant application support and large scope projects for land acquisition.

Crosby suggested that Weir work with staff to make additional changes to the policy.

E. Attendance at November 4th Council Meeting

Adams stated that he and Crosby would not be in attendance at the November 4th meeting and wanted to ensure that the other Councilmembers would be able to attend.

XI. MAYOR & CITY COUNCIL REPORTS

Weir complimented the Police department for their quick response time recently when a friend of hers had needed assistance.

XII. APPROVAL TO PAY THE BILLS

*Moved by Weir, seconded by Siitari, to approve the bills, EFT 000580-000587 for \$28,929.16 and order check numbers 034624-034688 for \$129,463.86 and payroll checks 020217-020218 for \$230.87 and EFT 502348-502377 for \$43,647.41. **Motion passed unanimously.***

XIII. CLOSED SESSION: ACQUISITION OF PROPERTY

The meeting was recessed to closed session to discuss the acquisition of property at 1600 Prairie Drive at 11:03 p.m.

The Council returned to open session at 11:29 p.m. and stated City Administrator Adams has been provided with direction as discussed in the closed session.

XIII. ADJOURN

*Moved by Johnson, seconded by Weir, to adjourn the meeting at 11:30 p.m. **Motion passed unanimously.***

T.M. Crosby, Jr., Mayor

Attest:

Chad M. Adams, City Administrator-Clerk